

# **EXHIBIT**

# **G**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SHERMEKE PERKINS,  
Plaintiff,

VS.

PROMOWORKS, L.L.C.,  
Defendant.

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Civil Action No. 4:11-cv-00442

**ORIGINAL**

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ORAL DEPOSITION OF SHERMEKE PERKINS  
April 14, 2012

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ORAL DEPOSITION OF SHERMEKE PERKINS, taken on the  
14th of April, 2012, from 9:00 a.m. to 3:52 p.m., before  
Paula A. Lucchesi, CSR in and for the State of Texas,  
reported by machine shorthand, taken at Fulbright & Jaworski,  
L.L.P., 1301 McKinney, Suite 5100, Houston, Texas, 77010,  
pursuant to Texas Rules of Civil Procedure and the provisions  
stated on the record or attached hereto.

1 with the EEOC or a state such as the Texas Human Rights  
2 Commission?

3 A. No, ma'am, I have not.

4 Q. Have you ever complained internally to an H.R.  
5 department or manager about discrimination or harrassment at  
6 any employer other than PromoWorks?

7 A. No, ma'am, I have not.

8 Q. Have you ever been terminated involuntarily by any  
9 employer other than PromoWorks?

10 A. Can you rephrase the question, please?

11 Q. Yes. Have you ever been fired from an employer  
12 other than PromoWorks?

13 A. No, ma'am, I have not. I have been involuntary with  
14 a layoff, a centralization, but not discharged or fired.

15 Q. Okay. And what companies were you laid off from?

16 A. That would have been Safeway, Randalls -- the  
17 Randalls division of Texas.

18 Q. Okay. The employer you worked for just before  
19 working for Star Chambers?

20 A. PromoWorks, yes, ma'am.

21 Q. And just so we are clear, Star Chambers is an  
22 affiliated company with PromoWorks?

23 A. Yes, they were.

24 Q. Or it was at the time, at least?

25 A. Yes, ma'am.

1 Q. Have you ever testified as a witness in court  
2 before?

3 A. No, ma'am, I have not.

4 Q. Are you in contact with any current PromoWorks  
5 employees at this time?

6 A. No, I am not.

7 Q. How about any former PromoWorks employees?

8 A. No, I am not.

9 Q. Let me start with just some basic background about  
10 your employment with PromoWorks, which would have begun  
11 initially at Star Chambers, right?

12 A. Yes.

13 (Perkins Exhibit No. 1 was marked.)

14 Q. I am handing you Perkins 1 which appears to be your  
15 offer letter for Star Chambers dated October 27th, 2004.  
16 Does that look like what it is?

17 A. Yes, it does appear to be.

18 Q. Okay. And your start date was November 1st, 2004 as  
19 stated; is that correct?

20 A. Yes, ma'am.

21 Q. Your starting salary was \$43,500 as stated?

22 A. Yes, ma'am.

23 Q. And your job title was in-house demo coordinator for  
24 Randalls, yes?

25 A. Yes, ma'am.

1 Q. Did you work in a Star Chambers office or did you  
2 work inside the Randalls store?

3 A. I worked inside the Randalls headquarters, the  
4 corporate office here in Houston.

5 Q. Okay. Your starting salary of \$43,500, did that  
6 remain unchanged until you received an increase in 2007 from  
7 PromoWorks, or did you get a raise before that?

8 A. There was a raise before that.

9 Q. Do you recall what your initial raise was, what your  
10 first raise was?

11 A. I don't recall the raise at this time. I just know  
12 that one was -- I can't recall. Maybe it was a five percent  
13 raise, but I can't recall exactly.

14 Q. And was that raise given to you while you were still  
15 at Star Chambers or when you went over to PromoWorks?

16 A. That would have been given while I was at Star  
17 Chambers.

18 Q. Did you receive any other raises at Star Chambers  
19 other than the initial approximately five percent raise?

20 A. Not that I recall at this time.

21 Q. And then when did you go over to PromoWorks?

22 A. I don't recall the exact date at this time, but they  
23 completed a merger, and with that merger I was then put on  
24 PromoWorks. I believe -- I don't want to speculate, but I do  
25 believe it was around 2006.

1 Q. Okay. Do you remember if it was early in 2006 or  
2 late in 2006?

3 A. I don't recall at this time.

4 (Perkins Exhibit No. 2 was marked.)

5 Q. I am handing you Perkins 2 which is numbered at the  
6 bottom PW-0028. Do you recognize this?

7 A. Yes, ma'am, I do.

8 Q. What is it?

9 A. It's my resume.

10 Q. Okay. And was this -- do you recall when you  
11 prepared this resume?

12 A. I believe this was prepared prior to me leaving  
13 Safeway, so it was -- or Randalls, so it was done prior to me  
14 leaving because I was given advanced notice that I would be  
15 laid off and centralized, and I was given advanced notice to  
16 prepare for that.

17 Q. Okay. Was this the resume you prepared when you got  
18 a job at Star Chambers?

19 A. Well, this was already prepared. I just added my  
20 current duties that I had been performing with Safeway to it.

21 Q. Okay. Was this the resume that you gave to Star  
22 Chambers when you interviewed for employment with them in  
23 2004?

24 A. Yes, it is.

25 Q. Okay. And your employment history that's listed on

1 the second page, PW-0029, is that accurate?

2 **A. Yes, that is accurate.**

3 Q. And the experiences and additional skills, is that  
4 accurate?

5 **A. Yes, it is.**

6 Q. And then back to the first page, 0028. The work  
7 experience and qualifications, was that accurate at the time?

8 **A. Yes, it was.**

9 Q. And there was no other employment you held between  
10 Randalls, where it says "1997 to present," and the time you  
11 became employed by Star Chambers?

12 **A. Correct.**

13 MS. STAHR: I may have given you the wrong  
14 exhibit. I did give you the incorrect exhibit. I am sorry  
15 about that. This was the letter that I was showing her.

16 MS. JENNINGS: Okay.

17 MS. STAHR: That's Exhibit 1.

18 MS. JENNINGS: Okay.

19 (Perkins Exhibit No. 3 was marked.)

20 Q. Perkins Exhibit 3 is No. PW-0042, and then behind  
21 that is No. PW-139 through 1440. The first page, 0042, do  
22 you recognize that?

23 **A. Yes.**

24 Q. What is it?

25 **A. That's my signature acknowledging that I have read**

1 over the handbook.

2 Q. Okay. And do you see the date at the bottom of that  
3 page?

4 A. I do.

5 Q. What is that date?

6 A. It says September 12th, 2006.

7 Q. Okay. And is that the date that you wrote next to  
8 it? It's a little difficult to read.

9 A. Yes, it appears to be.

10 Q. And then the policy manual behind it, is that the  
11 manual you received that you signed an acknowledgment of? It  
12 says on the bottom "updated September 2006" which would have  
13 been the month that you signed it.

14 A. Without reading through it and knowing exactly what  
15 I had read before, it appears to be the manual that I signed  
16 off on.

17 Q. Okay. And did anybody discuss vacation pay policies  
18 with you at PromoWorks when you were hired on at PromoWorks  
19 other than what's in the manual?

20 A. Other than what's in the manual, no.

21 Q. Okay. How about personal leave or sick leave  
22 issues? Other than what's in the manual, did anybody discuss  
23 those issues with you?

24 A. No, they did not.

25 Q. How about payment for sick time or personal time or



1           A.    I was the liaison for the Randalls division which  
2           consisted of the Houston, Austin and Dallas areas. That  
3           meant dealing with the suppliers and the vendors, also being  
4           the chain of command from the PromoWorks headquarters as well  
5           as the Star Chambers headquarters for the Randalls division  
6           office. I communicated with the stores and with the local  
7           agencies in Houston, Austin and Dallas as well.

8           Q.    What did that involve on a day-to-day basis? Were  
9           you sitting in a Randalls store on the phone most of the time  
10          or were you -- what was your day like on a typical day?

11          A.    It was a very busy day. Considering that I had the  
12          entire Texas division, I was constantly on the phone with  
13          suppliers and vendors and soliciting for sampling events,  
14          also coordinating these sampling events, making sure that  
15          notifications were -- the stores were notified by typing up  
16          e-mail notifications and notifying them of their sampling  
17          events.

18                I also ran scan data on those sampling events. We  
19          did detailed reporting to report back to the suppliers on  
20          their -- the effectiveness of their events, the execution of  
21          their events. Also I communicated that information on a  
22          weekly basis to the Randalls headquarters to let them know  
23          how the sales affected or were impacted from the events that  
24          happened over that period of time, so --

25          Q.    And what was your work week or workday hours like,

1           A.    No, just Cindy McGettigan.

2           Q.    Did anybody interview you when you became a  
3   PromoWorks employee as a result of the merger?

4           A.    No.

5           Q.    Did you have to go through an interview process?

6           A.    No.

7           Q.    Okay. Describe the alcohol-related responsibilities  
8   that grew in your position. What were those about?

9           A.    When I came on board in 2004, the only program that  
10   PromoWorks had at the time -- and I am saying PromoWorks  
11   because, again, they were in the process of the merger, and I  
12   did deal with them on a day-to-day basis other than Star  
13   Marketing. They only had food sampling events. That's all  
14   that they were handling at that time.

15               Well, in 2005 -- and as a matter of fact, in October  
16   of 2005, alcohol sampling was legalized in retail chains in  
17   Texas, and so I saw that as an opportunity to bring that side  
18   of the business into PromoWorks. And I was actually getting  
19   requests from vendors that I had previously worked with in my  
20   Safeway experience.

21               They knew that I was there in that office, so they  
22   knew that I knew the legalities because that's something that  
23   I -- my background -- from my previous background I had  
24   worked with. And they came to me because they knew that I  
25   was responsible for the food demos and the food sampling, and

1 I was the point person in the Safeway office for any type of  
2 sampling that went on in the stores.

3 So they requested that if we could start setting up  
4 some type of alcohol samplings because it was now legalized.  
5 So when I brought this to Joe Szala and Cindy McGettigan and  
6 Mike Kent, they didn't -- they weren't aware of what was  
7 going on in Texas, and this was nowhere across the board in  
8 the other divisions.

9 They had never dealt with that before. They didn't  
10 know where to start with that. So they asked me to go out  
11 and look -- research the legalities and to bring this back to  
12 them and, you know, see what I can find out about setting  
13 this up.

14 Q. Okay.

15 A. And that's what I did.

16 Q. Okay. So the store, Safeway or Randalls, started  
17 talking to you about doing this?

18 A. Uh-huh.

19 Q. And then you brought it to Mike Kent and Cindy  
20 McGettigan and Joe Szala?

21 A. Uh-huh.

22 Q. And you thought it was a good idea?

23 A. Uh-huh.

24 Q. And they did, too, apparently?

25 A. Uh-huh.

1 MS. JENNINGS: Verbalize it with a yes.

2 A. I am sorry. Yes, ma'am.

3 Q. (By Ms. Stahr) All of your "uh-huh's" were yes's?

4 A. Yes, ma'am.

5 Q. Okay. And that's how this aspect of your job  
6 materialized?

7 A. Yes, ma'am.

8 Q. Okay. And so let me just march through some of  
9 these documents here.

10 (Perkins Exhibit No. 4 was marked.)

11 Q. Perkins 4 is Document PW-0032 and 0033. It is a  
12 letter dated August 23rd, 2007 to you signed by Frank Colosi  
13 and a copy to Joe Szala, yes?

14 A. Yes, it is.

15 Q. Is this the letter that you received -- I will use  
16 the word "formalizing" your title and your wine and spirits  
17 role with the company?

18 A. This is -- I don't agree with that at this time, no.

19 Q. Okay. How would you describe what you have in front  
20 of you as Perkins Exhibit 4?

21 A. This -- this was generated after I had already been  
22 -- I had already consumed the duties. I had already consumed  
23 the duties, had taken on the title, had taken on many roles.  
24 I had -- I was working three other job titles at this time  
25 before this offer was generated, and it was actually

1 generated due to a resignation that I put in.

2 Q. Okay. Well, let's talk about the resignation. What  
3 -- what was the impetus for you writing a resignation letter  
4 or informing someone that you wanted to resign?

5 A. After I developed the program in 2005 for Texas,  
6 Safeway division approached Mike Kent and Joe Szala with  
7 going with the program that was developed in Texas  
8 nationally. They wanted to roll it out nationally in all of  
9 the divisions because of the profits that they were seeing  
10 out of the Texas division.

11 At that time I was approached by Joe Szala with word  
12 from Mike Kent that they wanted me to head this project up.  
13 Since I had done all the research for Texas, they wanted me  
14 to research every single division across Safeway and come up  
15 with -- basically implement a program that would be effective  
16 across the board.

17 And with that being said, he offered me an increase  
18 in pay and a title change as well as a bonus. And this was  
19 offered to me in October of 2006, which is when I started  
20 working on the project. And in 2006, October of 2006, I  
21 began working on researching all the legalities.

22 I researched, I would say, about ten states  
23 including Hawaii and Canada. I came back with all the  
24 research. I was involved in every aspect of the business now  
25 from the -- the dress code, the look of the whole program,

1 had found, so I was consuming more responsibility and no pay  
2 increase.

3 Q. So you felt like you were -- you wanted more money  
4 for the job you were doing?

5 A. It wasn't that I wanted more money for the job I was  
6 doing. I had consumed three job titles and I was only being  
7 paid for one. I was only being paid to be an in-house demo  
8 coordinator. He had promised that if I researched these  
9 legalities and we got a contract with Safeway, that my job  
10 would be changed -- my title would be changed, I would be  
11 given a bonus and I would be given a pay increase --

12 Q. I understand --

13 A. -- for all of my research --

14 Q. I understand what you have explained at length.

15 A. -- and he did not -- he did not honor this.

16 Q. So let's talk about your belief that you assumed  
17 several job titles. Was there a job title called Safeway  
18 Wine and Spirits Lead before you took it on? Was there a  
19 person who staffed that position?

20 A. No, there was not.

21 Q. Was there any job title in existence before you  
22 assumed that role?

23 A. No, there was not.

24 Q. That was a new role created for you, essentially,  
25 right?

1           A.    There was a lead role, but it wasn't for alcohol.  
2           It was a lead role for food which done the same -- had the  
3           same job responsibilities and roles.

4           Q.    I am asking you about the lead role for alcohol, the  
5           same role that you had. Was there anybody performing that  
6           role before you?

7           A.    No, because they didn't have the program.

8           Q.    Okay. And then the second job you believe you held  
9           was your original in-house demo coordinator position?

10          A.    Yes, ma'am.

11          Q.    And then what was the third job title you think you  
12          held?

13          A.    It was account manager. I was point person for  
14          Safeway corporate, so I handled all the Safeway supplier  
15          demands and needs and also sold demo events, which was a part  
16          of the sales team.

17          Q.    So the account manager was handling the Safeway  
18          supplies for the demonstrations?

19          A.    No, ma'am, they were handling the sales. They would  
20          go out and solicit sales from the vendors and suppliers and  
21          also coordinate the events and make sure and follow through.  
22          And it was a more extensive role from the in-house  
23          coordinator. The in-house coordinator's job was to follow up  
24          on these events. The sales account manager was the person  
25          who actually went out and sold the demo events, and that's

1     **what I did.**

2           Q.    And when did you start doing that?

3           A.    **I started that right away in December of 2006 once**  
4     **the program was implemented.**

5           Q.    Okay. On this letter here, PW-32, and let's look at  
6     the next page, 33 --

7           A.    **Uh-huh.**

8           Q.    -- is that your signature on that letter?

9           A.    **Yes, it is.**

10          Q.    Okay. So in this letter it says you are working in  
11     the position of Safeway Wine and Spirits Lead, slash,  
12     In-House Demo Coordinator, Randalls and Tom Thumb?

13          A.    **Uh-huh.**

14          Q.    And those are the -- that's the job title  
15     description, correct?

16          A.    **That's the job title that they gave me at the time,**  
17     **yes.**

18          Q.    Okay. And you received a salary increase?

19          A.    **Yes, I did, but not when it was supposed to be**  
20     **effective.**

21          Q.    Okay. We will talk about the timing in a moment. I  
22     want to talk about what's on this letter for right now. The  
23     salary increase was to \$57,000; is that right?

24          A.    **That is correct.**

25          Q.    What salary were you earning just prior to this?



1           A.    I don't recall at this time.

2           Q.    Was it in the 40's?

3           A.    Yes, ma'am, it was in the 40's.

4           Q.    And the letter also says, "You will also be eligible  
5   for a bonus plan of 10 percent of your 2007 salary,  
6   approximately \$5200, on a prorated basis, 5700 in 2008, for a  
7   total opportunity of \$62,200." Is that what it says?

8           A.    That's what it says, yes, ma'am.

9           Q.    How do you understand the word "opportunity"? What  
10   do you understand that to mean?

11          A.    Opportunity means that it can be \$62,200.

12          Q.    But not necessarily?

13          A.    That's not what -- this is not what was verbally --  
14   verbally noted in my original intent to take this position.  
15   This is not what -- when they typed it up, this is what they  
16   put, opportunity. But when they verbalized it to me, that is  
17   not what they verbalized to me.

18          Q.    Well, this is the letter that you signed, though,  
19   correct, and it has "opportunity" in there?

20          A.    It has opportunity, but this is not what was  
21   verbalized to me. It also had -- it doesn't have anything in  
22   here about goals, and they attached goals to that.

23          Q.    To what?

24          A.    To this bonus.

25          Q.    To the bonus opportunity?

1           **A.    Exactly.**

2           Q.    And that was provided to you at a different time,  
3 correct?

4           **A.    Yes.**

5           Q.    Okay. And you accepted this position as stated on  
6 PW-0033?

7           **A.    Yes, I did.**

8           Q.    Who did you inform that you wanted to resign before  
9 this letter was drafted to you?

10          **A.    I sent that to Joe Szala, Mike Kent, Denise Decker**  
11 **and Jon Bos as well as Frank Colosi.**

12          Q.    And who responded to you after you sent that  
13 letter?

14          **A.    Joe Szala responded to me immediately.**

15          Q.    He called you on the phone?

16          **A.    He called me on the phone. He also sent me an**  
17 **e-mail and wanted to negotiate and keep me on board with the**  
18 **company.**

19          Q.    He wanted you to stay?

20          **A.    He wanted me to stay.**

21          Q.    Did you feel he was trying to get rid of you or get  
22 you to leave the company for any reason at that point?

23          **A.    At that point I did not.**

24          Q.    How about Frank Colosi or Denise Decker or Jon Bos  
25 or Mike Kent?

1 folks on here held these positions?

2 MS. JENNINGS: Objection, form.

3 A. Can you repeat the question, please?

4 Q. (By Ms. Stahr) I understand that you disagree with  
5 the roles that are stated on here for you personally.

6 A. Uh-huh.

7 Q. Do you disagree with any of the roles stated on here  
8 for anybody else?

9 A. I don't disagree with them.

10 (Perkins Exhibit No. 7 was marked.)

11 Q. Okay. So let me show you Perkins 7 which is  
12 numbered Plaintiff Dep, that's P-1, period, d-e-p, period,  
13 001 through 012.

14 A. Uh-huh.

15 Q. And I received this from your attorney. What is  
16 this?

17 A. This appears to be my grievance complaint.

18 Q. To whom? Is this something you wrote down for  
19 yourself or did you give this to someone?

20 A. This appears to be -- without a cover, I really  
21 can't recall who this was addressed to.

22 Q. Did you write this document?

23 A. Without reading everything, I can't say that I wrote  
24 everything in this document, but it appears to be the  
25 document that I did write, yes.

1           A.    At the time I thought that they were going to --  
2           they were going to honor their verbal promise to me, and they  
3           didn't.

4           Q.    The next entry is December of 2006, do you see that?

5           A.    Uh-huh.

6           Q.    Briefly describe what you write about there.

7           A.    "I was acting and performing the new job position  
8           responsibilities of the Safeway alcohol sampling manager,  
9           in-house demo coordinator, Safeway alcohol sales account  
10          manager and Phoenix division coordinator as well as acting as  
11          legal ABC tasting expert."

12                "I inquired about the proposed pay increase and  
13          title change prior to a major presentation that I was flown  
14          out of town to present, and I was told that the increase  
15          still had not been addressed and approved by the V.P., but  
16          that he will work on it," he meaning Joe Szala, "and let me  
17          know. I gave the major tasting program presentation to  
18          Safeway and it was accepted."

19          Q.    So you documented this because you were still  
20          waiting for your pay increase and title change, and you  
21          hadn't received it yet?

22          A.    And I had already consumed the roles and  
23          responsibilities of that job title in 2006.

24          Q.    Did you feel at that time in December of 2006 that  
25          you were being discriminated against?

1           A.    Yes.  I began to feel that way, yes.

2           Q.    February 1st, 2007 describes how -- and I am going  
3   to summarize here, but you can take your time and read this  
4   and -- well, why don't you do that first.  Just read it to  
5   yourself.

6           A.    Okay.

7           Q.    This describes Joe Szala letting you know just  
8   before a presentation that you were to give to coordinators  
9   that he was giving you a promotion with a pay increase?

10          A.    Yes, ma'am.

11          Q.    And he wanted to announce it to the in-house  
12   coordinators?

13          A.    Yes, ma'am.

14          Q.    Did you have a problem with that?

15          A.    I did have a problem with that at the time because I  
16   feel like I haven't seen what you are going to offer me.  Why  
17   should I accept -- because you have already told me verbally  
18   months before that I was going to receive an increase in pay  
19   and a title change, but we are already two months, three  
20   months into this job position, and I have taken on all the  
21   roles and responsibilities, and you haven't honored it yet,  
22   but now you want me to believe you now so you can announce my  
23   promotion to the in-house coordinators.

24                   And he put me on the spot and he made me accept the  
25   position prior to me knowing what I was going to be making.

1 coordinators?

2       **A. I did not object because he told me that I had**  
3 **received my pay increase without telling me the amount of the**  
4 **pay, so I was assuming that it was the increase that I had --**  
5 **we had spoke of with the bonus.**

6       **Q. All -- my -- all I am trying to find out is whether**  
7 **you verbally told Joe you did not want him to tell the**  
8 **coordinators, not why you did or didn't but just if you did.**

9               **MS. JENNINGS: Objection. I think she answered**  
10 **your question.**

11       **Q. (By Ms. Stahr) And the answer to that is no, you**  
12 **did not?**

13       **A. No, I did not.**

14       **Q. Did you feel at the time that you were being**  
15 **discriminated against in this instance?**

16       **A. Yes, I did.**

17       **Q. From April to June of 2007, and we are looking at**  
18 **Plaintiff's Dep 002, take a moment to read that paragraph,**  
19 **please.**

20       **A. What paragraph are we looking at again?**

21       **Q. April to June of 2007.**

22       **A. Okay.**

23       **Q. Does this describe how you were feeling overworked**  
24 **and you asked Joe Szala for help?**

25       **A. I had consumed the roles of three job duties as well**

1 as playing legal expert and tasting expert for all of the  
2 Safeway division as well as for PromoWorks. Yes, I was  
3 overwhelmed.

4 Q. But I am asking if this paragraph describes you  
5 telling Joe that you were feeling overworked and you were  
6 asking him for help.

7 A. Joe promised that he would give me help when I took  
8 the position, that there would be someone else to help me  
9 with the position. We had various conversations prior to  
10 April about him taking off responsibilities -- since I had  
11 consumed all these duties, he was going to take some  
12 responsibility off of my desk, and that hadn't happened.

13 Q. Okay. So from April to June of 2007, does this  
14 paragraph describe you explaining to Joe your feeling  
15 overworked and Joe telling you that he would try to help?

16 A. I did make a complaint to Joe, yes, uh-huh.

17 Q. A complaint that you were feeling overworked?

18 A. No, I made a complaint that I had more than enough  
19 responsibility on my desk because I had three separate job  
20 duties -- three separate job titles, I meant, and was he  
21 going to actually take some of that responsibility away since  
22 I had consumed a new job title.

23 Q. Okay. And he said that he was going to send Denise  
24 Decker to help?

25 A. Yes. At the time Denise was his assistant, and she

1 was working beside him.

2 Q. Did you feel during this time period, April to June  
3 of 2007, that you were being discriminated against?

4 A. At that time I did feel that I was being  
5 discriminated against because I was constantly being put --  
6 more responsibility was constantly being thrown my way on top  
7 of my regular job roles and responsibilities, and I was  
8 expected to meet all of my -- my duties and roles. And yes,  
9 I felt that way because it was like I was asking for help and  
10 he wasn't listening.

11 Q. And you believe that was because of your race or  
12 your gender --

13 A. I do.

14 Q. -- or both?

15 A. Because I think that they took my hard work and my  
16 ethic and used it as a tactic to get me to do all these job  
17 titles because they knew I was wanting to grow within the  
18 company. And in order for them to use me that way, they made  
19 me feel like what I was doing was important and that I was  
20 the only person who could do it, and that's why they  
21 continued to throw responsibility on my desk. And yes, I  
22 felt overwhelmed.

23 Q. Why did you feel that it was related to your race?

24 A. Because no other in-house coordinator as well as  
25 lead -- Jen was a lead as well. She -- she didn't even have



1 this type of responsibility at all. Her job was strictly to  
2 be the lead for in-house coordinators, which is what -- the  
3 role that they actually gave me.

4 I was to be the lead and be a mentor -- or not  
5 really a mentor. I was just to be a lead and help where  
6 necessary, but that's not what my role was about. That was  
7 the title that they gave me, but that's not what my role  
8 entailed.

9 Q. What about your gender? Why do you believe this was  
10 being -- that this was happening because of your gender?

11 A. Because again, Jennifer Burgess also had a lead  
12 role, and in Jennifer Burgess' lead role, she -- I am sorry,  
13 Steven Plunkett, he was given a promotion the same time I was  
14 given a promotion. And with his promotion, he was put on the  
15 bonus plan and some of his duties were removed from his desk,  
16 but mine still remained the same and were much more heavier.

17 I mean, he -- he had minimal job duties and  
18 functions to do, but I was sitting over here with three  
19 different job titles and hadn't even received my pay increase  
20 for it, so --

21 Q. Do you know what Steve Plunkett's salary was?

22 A. I don't know what Steve Plunkett's salary was at the  
23 time.

24 Q. Were you involved in hiring Steve Plunkett?

25 A. No, I was not.

1 was part of Jennifer Burgess' job.

2 Q. Would it surprise you to learn that Steve Plunkett  
3 in 2008 was earning more than \$10,000 less than you?

4 A. That -- at the time, that was -- I was hired in at  
5 more than anybody within the company. So that doesn't  
6 surprise me, because when I was hired in, I was hired in  
7 according to the skills that I had with Safeway and the  
8 relationship that I had with Safeway, and that's why I was  
9 brought in and making more than anybody else. So no, it  
10 doesn't surprise me.

11 Q. Your salary was higher than anybody else?

12 A. When I started with the company, yes. That's why my  
13 salary ended up being higher than everybody else's, because I  
14 was hired in at more than everybody else.

15 Q. Okay. So going to -- back to Perkins Exhibit 7, the  
16 second page, the July 5th, 2007 entry, this is when Denise  
17 Decker came to Texas and sat with you for -- for a period of  
18 time?

19 A. This was the initial time that I met her or the  
20 second time that I had met her. I met her once in  
21 Sacramento, and then she flew down this day to introduce  
22 herself.

23 Q. Did you have a problem with that meeting with her or  
24 the time she spent with you?

25 A. I didn't have a problem with it because she told me

1 with these long answers.

2 A. Uh-huh.

3 Q. So I am trying right now just to confine the  
4 question and the answer to money amounts. So let me start.  
5 You received a seven percent increase -- I believe you just  
6 said you received a seven percent increase in -- was it April  
7 of 2007?

8 A. No, in February of 2007.

9 Q. Okay. And then did you receive a \$500 bonus in  
10 January or February of 2007?

11 A. That was -- yes, a holiday bonus, I believe. And I  
12 don't recall that, so I am going to say no because I don't  
13 recall that.

14 Q. Okay.

15 A. I don't at this time.

16 Q. You deny receiving a bonus in January or February of  
17 2007?

18 A. I don't recall at this time.

19 Q. So after the seven percent increase --

20 A. Uh-huh.

21 Q. -- in February of 2007, what is the next bonus or  
22 pay increase you received?

23 A. On August 23rd of 2007.

24 Q. And that is when the --

25 A. That was in an offer letter. I didn't actually

1 receive it, but it was in an offer letter.

2 Q. So that is what is conveyed in Perkins Exhibit 4,  
3 the letter dated August 23rd, 2007, right?

4 A. Yes.

5 Q. Okay. And I understand there was a pay period that  
6 was missed in terms of when that bonus -- or the increase in  
7 salary was paid to you?

8 A. Exactly.

9 Q. How many pay periods?

10 A. It was one -- it was -- it wasn't given to me on the  
11 effective pay period, but it was effective on -- September  
12 the 24th is when I received it.

13 Q. Of 2007?

14 A. Of 2007.

15 Q. Okay. So other than the seven percent increase in  
16 February of 2007 and the increase that you received in  
17 September of 2007, did you receive any other increase or  
18 bonus in 2007 that you recall?

19 A. No, I did not.

20 Q. How about in December of 2007, did you receive a  
21 \$500 bonus then?

22 A. I don't recall.

23 Q. And I take it that you believe that you should have  
24 received a bonus in 2007, correct?

25 A. I was promised a bonus in 2007.

1 Q. Okay. It's your assumption that Joe Szala, Jon Bos  
2 and Mike Kent denied you a bonus, but you don't know for a  
3 fact who was responsible for that?

4 MS. JENNINGS: Objection, form.

5 A. I can't assume that. I can only tell you that Joe  
6 promised me a bonus, and he said that it had gotten approved  
7 by the V.P. which was Jon Bos at the time.

8 Q. (By Ms. Stahr) Okay. At what point did you feel  
9 you were -- well, strike that.

10 Did you feel you were being discriminated against  
11 based on your race and your gender because you were not given  
12 a bonus in 2007?

13 MS. JENNINGS: Objection, form, it's compound.

14 A. Yes.

15 Q. (By Ms. Stahr) Did you feel you were being  
16 discriminated against based on your race because you did not  
17 receive a bonus in 2007?

18 A. Yes, ma'am, I do feel that.

19 Q. Did you feel that at the time in 2007?

20 A. Yes, ma'am, I did feel that.

21 Q. And did you feel that you were being discriminated  
22 against based on your gender because you did not receive a  
23 bonus in 2007?

24 A. Yes, ma'am, I did feel that --

25 Q. At the time?

1           A.    -- because again, Steve Plunkett had been put on the  
2   program around the same time frame as I, and he received a  
3   bonus.

4           Q.    Okay. And did you feel that way at the time in  
5   2007?

6           A.    I did.

7           Q.    Did Steve Plunkett, by the way, have the alcohol  
8   responsibilities that you had?

9           A.    Steve Plunkett had similar job responsibilities. I  
10   was asked to mentor him on the alcohol program. So he didn't  
11   have -- he had similar as far as my in-house demo coordinator  
12   duties, yes, but he had taken on some additional roles of his  
13   own.

14          Q.    How much of your job was the alcohol  
15   responsibilities versus the in-house demo coordinator  
16   responsibilities?

17          A.    The alcohol side was more of my responsibility  
18   because when Denise came on, she kind of structured --  
19   restructured everything off the record.

20          Q.    How much -- would you say 90 percent of your job was  
21   the alcohol responsibilities and 10 percent demo?

22          A.    I would say 80 percent, 85 percent, and 15 percent  
23   for demos.

24          Q.    And the remaining would be the alcohol  
25   responsibilities, about 85 percent?

1           **A.     About 85 percent.**

2           Q.     Now, on August 20th, 2007, and I am looking at the  
3     bottom half of Page Plaintiff Dep 003, this describes when  
4     you notified Joe and other individuals of your intent to  
5     resign?

6           **A.     Exactly.**

7           Q.     And at the time that you were intending to resign,  
8     did you feel that you were being discriminated against based  
9     on your race?

10          **A.     Yes, I did, and I did notate that in my resignation**  
11     **letter.**

12          Q.     Did you feel you were being discriminated against  
13     based on your gender?

14          **A.     Yes, I did.**

15          Q.     And what did you note about your belief that you  
16     were being discriminated against in your resignation letter?

17          **A.     I noted that there was unfair treatment going on.**  
18     **They continually put -- added on responsibilities outside of**  
19     **my job roles and duties. I put in there that I had**  
20     **developed, you know, this program for them after being asked**  
21     **to, and I was promised -- I was promised things that weren't**  
22     **honored. I also put that I was being treated unfair compared**  
23     **to the other in-house coordinators.**

24          Q.     Did you claim race discrimination at that time?

25          **A.     At that time I did not claim race discrimination.**

1           A.    That's what -- he left me a voicemail -- he called  
2   me and left me a voicemail and said that he got me a 15.5  
3   percent increase up front.

4           Q.    And did he -- is that what the \$57,000 represented?  
5   Was that a 15.5 percent increase?

6           A.    Yes.

7           Q.    Okay. So I suppose we could work backwards to find  
8   out what your salary was --

9           A.    Exactly.

10          Q.    -- by taking 15.5 percent less than \$57,000, right?

11          A.    Uh-huh.

12          Q.    Yes?

13          A.    That is correct.

14          Q.    Okay. So is there anything about this series of  
15   events where you intended to resign and then you were offered  
16   an increase, and you accepted? Is there anything about that  
17   that you believe was discriminatory?

18          A.    Yes, I --

19                   MS. JENNINGS: Objection, form. Go ahead.

20          A.    I am sorry. Yes, I felt that looking back, yes, it  
21   was -- there was -- there wasn't an intent for them to ever  
22   honor this bonus plan that they had put me on, and that was  
23   race discrimination. It was all their tactics to get me to  
24   continue to perform these duties that I was doing and also  
25   mentor and train other white employees that eventually took



1           A.     At the time I did not.

2           Q.     Okay. When did you start to feel that that was  
3     discriminatory?

4           A.     Right after I started making my complaint -- or  
5     basically after they gave me this raise, then it -- they  
6     started -- I noticed that I -- I incurred additional job  
7     responsibilities. So now that you have given me my increase  
8     that I should have had all along, now you are adding more  
9     responsibility to me that I have already -- I have already  
10    taken on three different job titles. Now that I have got my  
11    increase, you are adding more responsibility to me.

12          Q.     So it was shortly after August of 2007 that you  
13    started to perceive that it was discrimination that you  
14    didn't get retroactive pay to 2006?

15          A.     Not necessarily just retroactive pay. That wasn't  
16    even a thought about the retroactive pay. It was now you are  
17    -- you are adding -- just because you gave me a raise for  
18    something that I should have been getting all this time, I  
19    have been performing all of these duties, now you want to  
20    harrass me, basically, for information because you have given  
21    me an increase.

22          Q.     Harrass you for information?

23          A.     Well, yes. That's where it led up to. They were  
24    harassing me. They were making -- they kind of made it a  
25    hostile environment for me to work in, because after I

1 received that increase, now it was like demands coming from  
2 other parts of the PromoWorks business. Now since I have  
3 gotten my increase, now I have to put -- document things down  
4 on templates and now I have to create spread sheets and now I  
5 have to conduct conference calls and meetings and additional  
6 things that all this time I haven't had to do.

7 But now since you have given me an increase, you  
8 want me to conduct conference calls with -- with -- I am on  
9 the Safeway account, but now I have to conduct conferences  
10 with the Wal-Mart account, I have to conduct conferences with  
11 the personnel on the Krogers account and the person on the  
12 Costco account, so it was all of these additional roles that  
13 I had taken on.

14 Q. When did those duties begin, the additional duties?

15 A. Directly after my increase.

16 Q. So still in 2007?

17 A. Still in 2007.

18 Q. And you believe that that was discrimination?

19 A. I do.

20 Q. Did you at the time?

21 A. Yes, I do.

22 Q. Race discrimination?

23 A. No, not at the time.

24 Q. Gender discrimination?

25 A. No.

1           A.    She would only -- yes.  She was hired to be the  
2   sales account -- well, actually she was -- her job title was  
3   Safeway account manager, yes.

4           Q.    Is that a sales position?

5           A.    It entails some sales, yes.

6           Q.    Was Nikki based in California?

7           A.    Nikki was given a relocation package from Chicago to  
8   move to California.

9           Q.    Was she -- if you know, was she an existing  
10   PromoWorks employee or was she hired from outside?

11          A.    She was hired from outside.

12          Q.    Do you know whose decision it was to hire Nikki?

13          A.    Denise Decker's.

14          Q.    On her own?

15          A.    Yes.

16          Q.    Do you believe Denise had the authority to hire  
17   somebody --

18          A.    Yes.

19          Q.    -- on her own?

20          A.    Yes.

21          Q.    Do you know if anybody else was involved in that  
22   decision?

23          A.    I can't speculate, but I assume so.  Joe and Denise  
24   worked hand in hand.

25          Q.    You don't know everybody who was involved in that

1 decision, though?

2 A. I don't, no.

3 Q. Were you involved in the decision to hire Nikki?

4 A. No, I was not.

5 Q. Do you know Nikki's qualifications or work  
6 experience?

7 A. Just what she had told us when she introduced  
8 herself.

9 Q. You have never seen her resume or employment  
10 application?

11 A. No, I have not.

12 Q. Do you have any knowledge of her sales experience?

13 A. No, I don't.

14 Q. Okay.

15 A. But I also know when Nikki was hired, that -- for  
16 this position, this position was not posted within -- within  
17 the PromoWorks -- it wasn't offered to any of us on the team,  
18 not -- including myself, and I was very well qualified for  
19 this job.

20 Q. Because of your sales experience?

21 A. Uh-huh.

22 Q. Which you have described already today?

23 A. Uh-huh.

24 MS. JENNINGS: That's a "yes"?

25 A. Yes, ma'am. I am sorry.

1 Q. (By Ms. Stahr) Okay. And you write in here that  
2 Denise set up client meetings for her and Nikki to go to, and  
3 she did not set them up for you to go to?

4 A. Yes, ma'am.

5 Q. And you think that that's wrong?

6 A. Yes, ma'am, I do feel that that was very wrong for  
7 her to do that.

8 Q. Did you believe it was racially discriminatory for  
9 her to do that?

10 A. Yes, I do believe that that was racially -- racial  
11 discrimination, race -- well, it's race.

12 Q. Was it based on gender discrimination as well?

13 A. I wouldn't say gender because Nikki is a female, but  
14 I would say it was racial discrimination, yes.

15 Q. And did you feel that way at the time?

16 A. Yes, I did.

17 Q. So back in 2007 and 2008 when Nikki was hired, you  
18 felt that it was discriminatory that she was brought to  
19 client meetings and you were not?

20 A. It's not necessarily the client meetings that was  
21 discriminatory, it was the way Denise handled Nikki as far as  
22 setting her up to meet clients, allowing her to have a budget  
23 to travel to meet clients, introducing her to my clients that  
24 I dealt with on the alcohol when Nikki was hired for the food  
25 side account.

1 office helping her, so she didn't do all of her roles and  
2 responsibilities like I was responsible for all of my roles  
3 and responsibilities. Hers were dispensed out amongst the  
4 people that were in the Safeway office with her.

5 Q. Well, it sounds like there was an opening that they  
6 needed to fill in the food sales side, right?

7 A. It wasn't -- no, it wasn't an opening, because  
8 that's actually what Denise was hired to do. Denise was  
9 supposed to be doing that position, and instead they hired  
10 Nikki to basically be her assistant when Denise was assisting  
11 Joe as well, so --

12 Q. Well, I am trying to understand your objection to  
13 what happened here. Is your objection that they hired Nikki  
14 to do it instead of Denise doing it?

15 A. I wouldn't object to that, no.

16 Q. So what is your objection to them hiring Nikki to do  
17 that job?

18 A. That position was not posted within the company for  
19 us to apply for.

20 Q. Your objection is that you wanted that job?

21 A. I was qualified for that job, and that job was not  
22 offered to me, that's -- that's what I am saying.

23 Q. So you are saying that you wanted that job instead  
24 of the job you had?

25 A. No, not necessarily. I am not saying that. I am

1 saying that in all fairness, when a position becomes  
2 available within a company or a position is created within a  
3 company, everyone should have the opportunity to apply for  
4 that position if they feel they are qualified, and that  
5 didn't happen.

6 Q. They didn't post the job to anybody internally,  
7 correct?

8 A. They didn't post the job -- they didn't post a lot  
9 of jobs. We never knew about jobs. It was just somebody  
10 would fill those jobs or they would make an announcement  
11 that, you know, a job had been filled.

12 Q. Okay.

13 A. If it was open, we never knew about it.

14 Q. Okay. And is that a job you would have applied for  
15 had you known about it?

16 A. Yes, it would have been.

17 Q. Is that a job you wanted, then?

18 A. Yes, it would have been a job that I wanted because  
19 it was -- I was basically doing those duties anyway. I was  
20 doing -- I was doing those duties along with my alcohol  
21 duties, so --

22 Q. So that Nikki actually took some duties away from  
23 you that you were having to do?

24 A. Nikki took on food side demos, but not from my desk,  
25 because I was still doing those duties locally. Nikki just

1           A.   Well, I was told that -- I was told that Jennifer  
2   Burgess -- I reported to Jennifer Burgess.

3           Q.   For the food demo side?

4           A.   No. I was told that she was my direct boss.

5           Q.   When were you told that?

6           A.   That was told to me by Frank Colosi after my  
7   complaint.

8           Q.   Okay.

9           A.   But all that time prior to my complaint I was  
10   reporting to Jen, like when I would leave to go on vacation.  
11   I was also reporting to Denise Decker and Jillian Plummer.  
12   So again, I had many people that I would report to.

13          Q.   Okay. So back to this conversation with Denise  
14   around March 27th of 2008 about your bonus.

15          A.   Uh-huh.

16          Q.   Did you start to feel at that time that there was  
17   some form of discrimination occurring regarding your bonus?

18          A.   This was definitely discrimination going on now  
19   because now we are in another year. I didn't receive a bonus  
20   in 2007. Now I have it in writing that I should have  
21   received one in 2008. And the only reason why I found out on  
22   March 27th of 2008 that they had already been handed out is  
23   because Rex had -- as I stated before, Rex and I worked on  
24   several programs and projects with Safeway corporate to get  
25   the alcohol set up, the alcohol Texas set up, so he knew that



1 I was supposed to receive a bonus.

2 And he e-mailed me and said, "Did you get your bonus  
3 yet? You know, you should have gotten it. It should have  
4 been good, you know." And he kind of hinted that the bonuses  
5 had already went out. And I was expecting a bonus in April,  
6 which was what I was told, that they went out in April.

7 Q. When was it that you started to believe that your  
8 not getting a bonus in April was racially discriminatory?

9 A. Oh, I felt that right up front because --

10 Q. Right in April of 2008?

11 A. In April after I didn't receive my bonus and I  
12 questioned it with Denise and Joe, it was very evident and  
13 clear that there was no intent to ever give me a bonus even  
14 after they put it in an offer letter.

15 Q. And you believed that that was racially  
16 discriminatory?

17 A. Yes, I do because --

18 Q. Did you believe that was gender discrimination?

19 MS. JENNINGS: Let her finish her answer.

20 A. Yes, I do, because Jennifer Burgess had received a  
21 bonus. Nikki Leigh had just come on board and received a  
22 \$4300 bonus. Rex Chaney had -- white male, had received a  
23 bonus. Steve Plunkett, white male, had received a bonus.

24 Q. (By Ms. Stahr) If I asked you why do you believe,  
25 then that would be the answer. Right now I am just asking

1 you if you believe in April of 2008 that your failure to  
2 receive a bonus was racially discriminatory.

3 **A. Yes, I do.**

4 Q. Did you believe that it was discrimination based on  
5 your gender also?

6 **A. Yes, I do.**

7 Q. And who do you believe discriminated against you in  
8 terms of not giving you a bonus in April of 2008?

9 **A. Whoever was responsible for issuing those bonuses**  
10 **out.**

11 Q. Do you have any knowledge of who those individuals  
12 were?

13 **A. That would be -- well, the person who made me the**  
14 **offer, which came from Joe Szala, Mike Kent and Jon Bos.**

15 Q. Who made you the offer?

16 **A. The offer was made initially by Joe Szala in 2007**  
17 **with the offer letter.**

18 Q. You mentioned Mike Kent and Jon Bos. Did either one  
19 of them make you an offer or --

20 **A. They discussed it with Joe. Joe -- that's what he**  
21 **had to get approved prior to giving me that offer and putting**  
22 **it in an offer letter.**

23 Q. Did Mike Kent discuss with you personally the offer  
24 letter that was given to you in August of 2007?

25 **A. We never discussed anything personally because**

1 Q. Could we stick with the bonus?

2 A. Uh-huh.

3 Q. I am going to get to all of this, but stick with if  
4 PromoWorks ever stated a reason. I know that you are giving  
5 me your belief as to the reason, but I want to know if  
6 anybody from PromoWorks ever told you a reason.

7 A. They told -- Joe told me that I wasn't ratified in  
8 the system, that I had not been input into the system.

9 Q. Okay. And were you told any other reason about the  
10 2008 bonus not being received?

11 A. No, not at that time.

12 Q. Okay. If you can look back to around Plaintiff Dep  
13 006.

14 A. Uh-huh.

15 Q. Now, there is an entry here that says "on Thursday,  
16 May 8th" at the bottom.

17 A. Uh-huh.

18 Q. I don't see an entry for May 2nd, and you said that  
19 you called Frank Colosi on May 2nd. Could that have been May  
20 8th? And take your time and read it.

21 A. Yes, that would have been May 8th.

22 Q. So May 8th was when you telephoned Frank Colosi to  
23 talk about the bonus?

24 A. Frank Colosi, yes.

25 Q. And is this write-up here accurate?

1           **A.    Yes.**

2           Q.    Did you complain about race discrimination at that  
3 point?

4           **A.    At that point, no.**

5           Q.    Did you complain about gender discrimination at that  
6 point?

7           **A.    No, not at that point.**

8           Q.    Okay.

9           **A.    It was strictly about the bonus.**

10          Q.    Did you believe at that time that this was a result  
11 of race discrimination?

12          **A.    Yes, it was becoming very evident.**

13          Q.    Did you believe it was a result of gender  
14 discrimination?

15          **A.    Yes, I do.**

16          Q.    And then between February and May of 2008, you write  
17 here in the middle of 007 that this was when you were  
18 approached and asked about processes and procedures and to  
19 document things?

20          **A.    Yes.**

21          Q.    Did you ever apply for a different position at  
22 PromoWorks?

23          **A.    There weren't any positions ever open for us to view  
24 and apply for. They never posted positions at PromoWorks.**

25          Q.    So the answer is no?

1 herself. So she was basically funneling the information from  
2 me to make it appear as if she was doing the sales for my  
3 account after that point on.

4 Q. So Denise was your supervisor, correct?

5 A. Yes.

6 Q. And Joe was Denise's supervisor?

7 A. Yes.

8 Q. And Mike Kent was Joe's supervisor?

9 A. Jon Bos and Mike Kent, yes.

10 Q. Jon Bos and Mike Kent were both Joe's supervisor,  
11 correct?

12 A. Yes.

13 Q. And Denise's problem was she didn't want you to  
14 communicate with your upper level supervisors directly? She  
15 wanted the communications to go to her first?

16 A. Yes, ma'am.

17 Q. Okay. The next page, 009, Wednesday, May 21st,  
18 Denise came to the Randalls office to observe. I take it  
19 this was during the same trip, right?

20 A. Yes.

21 Q. This was the following day, May 21st, 2008?

22 A. Yes.

23 Q. And you played a voicemail for her?

24 A. Yes.

25 Q. What voicemail did you play for her?

1       **A.    Yes.**

2       Q.    Was Denise in the office with you?

3       **A.    Denise was at the hotel.**

4       Q.    So this was a three-way call with each of you in  
5 different locations?

6       **A.    Yes, uh-huh.**

7       Q.    Did Denise know that you were recording the  
8 conversation?

9       **A.    No, she did not.**

10      Q.    Did Joe know you were recording the conversation?

11      **A.    No, he did not.**

12      Q.    And did you feel you needed to record it because  
13 that race discrimination -- excuse me. Did you feel you  
14 needed to record it because race discrimination was  
15 occurring?

16      **A.    I felt like I needed to record that conversation**  
17 **because, again, promises had been made in the past verbally**  
18 **that had not been honored.**

19      Q.    And did you also feel that gender discrimination was  
20 going on at this time?

21      **A.    Yes, I did feel gender discrimination.**

22      Q.    Okay. And what happened during that conversation?  
23 Did Joe give you an explanation about the bonus or did he  
24 still say he didn't know? What was happening?

25      **A.    Well, Joe basically stated that it was something**

1           **A.    In 2007, yes.**

2                   **(Perkins Exhibit No. 9 was marked.)**

3           **Q.    Okay. Perkins 9 is PW-0214 and 215. What is this?**

4           **A.    This is my written letter of grievance complaint.**

5           **Q.    To Frank Colosi?**

6           **A.    To Frank Colosi.**

7           **Q.    Dated August 8th, 2008?**

8           **A.    Yes, ma'am.**

9           **Q.    And you are complaining of race discrimination**  
10 **against PromoWorks?**

11          **A.    Yes, I am.**

12          **Q.    And is this the first complaint you made where you**  
13 **identify race discrimination?**

14          **A.    No, it was not.**

15          **Q.    When is -- what other complaint had you asserted**  
16 **prior to this where you identified race discrimination?**

17          **A.    I had spoken with him verbally prior to August 8th.**

18          **Q.    When was that?**

19          **A.    I don't recall, but I know it was sometime the first**  
20 **week. This was August 8th, so this was on a Friday. So I**  
21 **can't speculate on the date, but it was maybe like a week**  
22 **before, and I had placed a call with him and spoken with him**  
23 **verbally.**

24          **Q.    And you identified race discrimination in that call?**

25          **A.    Yes, I did.**

1 Q. And that was about a week before this e-mail dated  
2 August 8th, 2008?

3 A. Yes, ma'am.

4 Q. Was that phone call to Frank the first time you  
5 identified race discrimination --

6 A. Yes, ma'am.

7 Q. -- in a complaint to PromoWorks?

8 A. Yes, ma'am.

9 Q. And what did Frank -- did Frank respond to you when  
10 you sent this e-mail?

11 A. He did respond, and he told me that he would  
12 investigate.

13 Q. Okay. Did he ask you to put any information in  
14 writing?

15 A. Yes, he did. And that's what generated this letter,  
16 because I had put -- we had spoken -- we had spoken verbally,  
17 and then he asked me to put it in writing, and then he asked  
18 me to put my details in writing once more.

19 Q. Okay. So when you first phoned him and complained  
20 of race discrimination, that's when he asked you to put a  
21 complaint in writing?

22 A. Yes.

23 Q. And that's when you wrote this e-mail dated August  
24 8th, 2008 --

25 A. Yes.



1 Q. -- that you have in front of you, 214 and 215?

2 A. That is correct.

3 Q. And then he asked you for more written details?

4 A. Correct.

5 (Perkins Exhibit No. 10 was marked.)

6 Q. And I believe that would be what you see here in  
7 Plaintiff's Exhibit 10 marked PW-212 and 213. Is that what  
8 you submitted to Frank in response to his second request for  
9 something in writing?

10 A. Correct.

11 Q. Under conduct that's discriminatory on PW-212, in  
12 number one you say "Denial of bonus in 2007, no target goal  
13 set in 2007," right?

14 A. Correct.

15 Q. Have you already told me everything that you believe  
16 is discriminatory about the denial of bonus in 2007?

17 A. No, I haven't.

18 Q. Okay. Could you explain what else you think is  
19 discriminatory about the denial of bonus in 2007?

20 A. I received my bonus goals after they told me that my  
21 bonus would be based off of goals. It was never put in the  
22 offer letter, but that was one of the reasons why they said I  
23 didn't receive the bonus in 2007. So I was told that -- in  
24 May of 2007 when we had the audio recorded conversation with  
25 Joe Szala that he would put together some goals for me

1 because I had made the complaint, they gave me some bonus  
2 goals eight months into the year. I didn't receive my bonus  
3 goals until August 20th of 2008 when everyone else had  
4 received their bonus goals in April.

5 Q. In retaliation for what, complaining about your  
6 bonus?

7 A. Making my complaint, yes, of race discrimination.

8 Q. Okay. So you believe that your complaint to Frank  
9 in August of 2008 -- that you were retaliated against for  
10 making that complaint by being given bonus goals that month?

11 A. That was a form of retaliation in my eyes because it  
12 wasn't given to me until after. We had a private  
13 discussion. He told me everything was confidential that we  
14 had discussed, even -- he noted that. And even in our call  
15 he said that the conversation that we had was confidential.

16 But only after I addressed this with him, then  
17 Denise comes with a set of goals that she gave me and said  
18 that I needed to follow in order to -- and meet these goals  
19 and objectives in order to receive my bonus for 2009.

20 Q. I understand. Okay. So after you complained to  
21 Frank, and included in your complaint was the bonus issue,  
22 after that Denise came to you and gave you bonus goals,  
23 right?

24 A. She did.

25 Q. Did Denise say anything about the complaint that you

1 was that just written to you or was it written to others as  
2 well?

3 A. I have -- I don't recall.

4 Q. And you believed at the time you wrote this  
5 complaint to Frank on August 15th, 2008 that you were  
6 discriminated against based on your race because you weren't  
7 reimbursed for your travel expense, time or cell phone use?

8 A. That is correct.

9 Q. Did you believe it was gender discrimination as  
10 well?

11 A. Yes, I do. Again, Steve Plunkett was allowed to  
12 travel and given a budget and given his bonuses.

13 Q. No. 6, "Contracted agency that harassed and  
14 threatened a lawsuit against me." You're talking about the  
15 Christopher Clash Agency?

16 A. Yes, ma'am.

17 Q. Yes, I am familiar with them.

18 A. Yes. And I think we conversated on that.

19 Q. "And the company never got involved in resolving the  
20 dispute until after my complaint of discrimination and me  
21 inquiring about seeking my own legal representation," tell me  
22 what your complaint is there.

23 A. My complaint is I had been complaining to Joe Szala  
24 and Denise Decker on this company sending me harassing  
25 e-mails and constantly threatening to go to the TABC and

1 things like that saying that PromoWorks was breaking the law,  
2 but that was out of my control. I had nothing to do with  
3 contracting them from the beginning.

4 And for them to contact me -- the reason why they  
5 were contacting me is because they thought I was a Safeway  
6 employee because my I.D. -- my name tag was Safeway. So they  
7 actually were funneling all the e-mails thinking I was the  
8 Safeway contact as well as e-mailing yourself and whoever  
9 else they were e-mailing on the PromoWorks side with their  
10 complaints.

11 Q. What do you believe was discriminatory on  
12 PromoWorks' part about the situation with the Christopher  
13 Clash Agency?

14 A. Because Denise and Joe allowed that to continue to  
15 go on. They let that go on and they let them assume that I  
16 was a Safeway employee so that I could stop the e-mails in  
17 its tracks and keep it from going to Safeway corporate. To  
18 me that was race discrimination and that was -- that was  
19 discrimination because why would you allow them to continue  
20 to harrass me and not correct the problem and tell them that  
21 I was a PromoWorks employee as well so they would stop and  
22 get someone else involved.

23 Q. And -- oh, go ahead. Are you done?

24 A. Yes.

25 Q. When did you tell Joe or Denise about the problem

1 'that you were having with Christopher Clash?

2 A. I don't recall, because I would forward them the  
3 e-mails as I was receiving them. I was first getting phone  
4 calls and then I started getting the e-mails.

5 Q. And you don't think they acted quick enough, is that  
6 what you are saying?

7 A. They let it go on until I made this complaint. And  
8 once I made the complaint, then that's when it started being  
9 addressed.

10 Q. It was addressed, correct?

11 A. Eventually it was addressed.

12 Q. The Christopher Clash Agency stopped contacting you?

13 A. Yes.

14 Q. Okay. You're aware that I wrote a letter, that the  
15 company invested time and money and legal fees to have me get  
16 involved in that situation? Are you aware of that?

17 A. I was aware of that, yes.

18 Q. And you believed at this time on August 15th of 2008  
19 that you were racially discriminated against because of  
20 PromoWorks' failure to act quicker, is that what you are  
21 saying?

22 A. Act quicker on the Christopher Clash incident?

23 Q. Yes.

24 A. I feel that they misled that agency to think that I  
25 was a Safeway employee, and they could have stopped that in

1 but they probably would have funnelled the e-mails toward her  
2 since she was my director. I mean, she was my upper  
3 supervisor. It probably would have stopped with me since I  
4 am not a supervisor.

5 Q. And Christopher Clash Agency was e-mailing you about  
6 their belief that there was some non-compliance with an  
7 alcohol law, right?

8 A. That wasn't the original claim. The original claim  
9 was because I was the point person for Safeway, someone --  
10 Mark Reed at PromoWorks had gone out and contracted them  
11 without verifying that they had the proper licensing to  
12 execute the alcohol demos in Safeway.

13 A part of my job and a part of the handling of the  
14 promotional permits and the -- and the licensing and  
15 everything, I handled all of that for Safeway, Safeway  
16 corporate. Safeway corporate let me be in charge of that. I  
17 kept everything -- I made sure that the agencies had their  
18 licenses, the proper permits.

19 That was kept in a file on my desk, and not even at  
20 PromoWorks. So when they went out -- Mark Reed went out and  
21 contracted the agency, he -- normally I was -- that was the  
22 process that I had, but they took that process over. And so  
23 when they took that process over, he didn't verify to see if  
24 they had the proper licensing.

25 So when I called to verify to get the license so I

1     **could put it in my file, they didn't have the permit, and**  
2     **that's what generated all of that.**

3         Q.     So when you say "contracted agency that harassed and  
4     threatened a lawsuit against me," you're not talking about  
5     race harassment? You don't think Christopher Clash harassed  
6     you based on race?

7         A.     **No, I don't.**

8         Q.     Or gender?

9         A.     **No.**

10        Q.     Okay. "Non-black persons treated more favorably,"  
11     and you have a list of seven people here. Is there anybody  
12     else that you believe was non-black and was treated more  
13     favorably?

14        A.     **Jillian Plummer.**

15        Q.     She is on here. She is number two.

16        A.     **This looks to be accurate.**

17        Q.     Okay. And this document sets forth your complaints  
18     of race discrimination as of August 15th, 2008, correct?

19        A.     **Yes.**

20                    **(Perkins Exhibit No. 11 was marked.)**

21        Q.     Perkins 11 appears to be an e-mail from you to Debra  
22     Jennings; is that right?

23        A.     **Yes.**

24        Q.     And you are forwarding something for the files,  
25     right?

1           **A.    Correct.**

2           Q.    You are forwarding an e-mail from Jennifer Burgess,  
3   it looks like?

4           **A.    Yes, correct.**

5           Q.    And the e-mail is dated September 4th, 2008,  
6   correct?

7           **A.    Yes.**

8           Q.    Is it fair to say that Ms. Jennings was your lawyer  
9   as of September 4th, 2008?

10          **A.    I don't recall if I had already retained her as a**  
11 **lawyer, but I was speaking with her, yes.**

12          Q.    When is the first time you consulted a lawyer  
13 regarding possible claims against PromoWorks?

14          **A.    I don't recall the exact date.**

15          Q.    Was it -- I am sorry.

16          **A.    It was in 2008, but I don't recall the exact date.**

17          Q.    Do you recall if it was before you made your  
18 complaint of race discrimination to Frank Colosi?

19          **A.    No, it was not.**

20          Q.    It was after that?

21          **A.    I don't recall. I don't recall the date.**

22          Q.    Except that it was in 2008?

23          **A.    Yes.**

24          Q.    Was it before December of 2008?

25          **A.    I don't recall.**



1 Q. Well, this is dated September 4th of 2008. Do you  
2 have a relationship with Ms. Jennings outside of the  
3 attorney/client relationship?

4 A. No, I don't.

5 Q. Why were you forwarding this e-mail for your file to  
6 Ms. Jennings?

7 MS. JENNINGS: Objection. That goes into, I  
8 think, privilege.

9 MS. STAHR: It looks like the privilege has  
10 been waived at least as to this document, if not more.

11 A. This involved my employee evaluation on September  
12 4th of 2008.

13 Q. (By Ms. Stahr) And why were you forwarding it? Did  
14 you think it had some legal relevance?

15 A. Yes, I did. Obviously I did at the time.

16 Q. This appears to be an e-mail scheduling a date for  
17 your 2008 employee evaluation; is that correct?

18 A. That is correct.

19 Q. Why did you believe that there was something  
20 discriminatory about the evaluation when you hadn't received  
21 it yet?

22 A. Because up until this point I had been getting  
23 retaliation for making my complaint. And I had received  
24 several, I would say, indications from Denise that now since  
25 I have made my complaint, certain things that I have been

1 PW-0036. Is this the review that was handed to you in  
2 September of 2008?

3 A. Yes, it appears to be.

4 Q. And do you recall the specifics of any conversation  
5 that was had by Denise or Jen about this review?

6 A. Yes, I do. Actually I have an audio recording of  
7 it.

8 Q. Okay. When did you first start to make your audio  
9 recordings of people at PromoWorks?

10 A. In May of 2007.

11 Q. Why did you start to do that?

12 A. Or May of -- I am sorry. I don't recall at this  
13 time, I don't.

14 Q. Why did you start to record employees of PromoWorks?

15 A. Because promises had been made that had not been  
16 kept. Also there was a lot of retaliation and race  
17 discrimination going on, and I felt that -- it was my belief  
18 that nobody was believing me. When I was making my complaint  
19 with Frank, his whole turn on the events is -- when he did  
20 his investigation was that nobody was discriminating against  
21 me.

22 Q. Can you repeat that, please? What Frank said?

23 A. What Frank said.

24 Q. Okay. And why did you bring an audio recording to  
25 your performance review?

1           A.    Because I felt the need to record it. I knew that  
2   there would be some negative things said because of what led  
3   up to this point after my complaint. I had never had a  
4   negative review before. I had never done anything on my  
5   performance -- all of my reviews up until this point had been  
6   good, everything.

7           I was also during this evaluation evaluated on  
8   things in here that I shouldn't have been, so I did feel the  
9   need that I needed to be recording -- I needed to record it.

10          Q.    Were you intending to use those recordings as  
11   evidence in a race discrimination case?

12          A.    My intentions were to prove that race discrimination  
13   and gender discrimination was going on.

14          Q.    Were you aware of a company policy prohibiting  
15   recording devices in the workplace?

16          A.    No, I wasn't aware of that.

17          Q.    And I take it nobody at PromoWorks was aware that  
18   you were making these recordings?

19          A.    No, ma'am, they weren't.

20          Q.    Were you ever in the same room with somebody when  
21   you made the recordings, or were they all over the phone?

22          A.    No, I was not. They were in Chicago and I was  
23   located in Texas. We never met face to face.

24          Q.    Are you aware that Illinois has a two-party consent  
25   law regarding audio taping people where it is against the law

1 and it's a criminal violation if you record somebody without  
2 their knowledge?

3 A. Most of my recordings weren't conducted from  
4 Illinois. Most of the recordings that I had were conducted  
5 with Denise in Arizona or in -- or in Colorado with Jen or --

6 Q. You recorded Joe Szala in Chicago, correct?

7 A. That is correct, but I was not aware of that law. I  
8 don't know the legalities.

9 Q. Do you find anything racially discriminatory about  
10 this review, that's written in the review, any mark or  
11 specific rating that you think is discriminatory?

12 A. Yes, I think that -- actually the whole entire  
13 evaluation because, first off, they told me that everybody  
14 was rated the same. Nobody got over threes or fours on the  
15 evaluations. So I am assuming that we all were rated threes  
16 and fours or threes and twos.

17 But managerial skills, they rated me on managerial  
18 skills, and they told me in the same performance review that  
19 I was not a manager. So why are you rating me and evaluating  
20 me on something that you are clearly telling me that I am  
21 not, which brought my overall performance evaluation down.

22 Q. Do you agree that you were not a manager?

23 A. No, I don't agree with that, because I did perform  
24 manager duties.

25 Q. You believe you were a manager?

1           A.    Yes, I do believe I was a manager, but they didn't  
2 believe that I was a manager. They didn't consider me a  
3 manager.

4           Q.    So you were not a manager according to PromoWorks'  
5 categorization of things?

6           A.    Exactly.

7           Q.    Okay.

8           A.    But they portrayed me that way with Safeway.

9           Q.    So you believed that you were performing managerial  
10 duties, but you objected to being rated on managerial skills?

11          A.    I was performing managerial skills and -- but she  
12 told me in the interview -- in the performance review that  
13 she didn't have to rate me on this -- that she really  
14 shouldn't have rated me on managerial skills, but she just  
15 wanted me to know where I was so that I could work on that.

16          Q.    Okay. Well, let's break for lunch.

17                   MS. JENNINGS: Okay.

18                   (Lunch recess taken.)

19                   (Perkins Exhibit No. 13 was marked.)

20          Q.    (By Ms. Stahr) Ms. Perkins, you are still under  
21 oath, do you understand that?

22          A.    Yes.

23          Q.    Perkins 13 is PW-0186, 187 and 188. It's an e-mail  
24 string. If you could turn to the back of the e-mail first so  
25 we can start with the first e-mail in the string. It starts

1           **A.    That is correct.**

2           **Q.    You did write to Frank Colosi, though, it looks**  
3 **like, the following Monday, September 8th?**

4           **A.    Uh-huh.**

5           **Q.    And that is the e-mail that appears on PW-0187,**  
6 **correct?**

7           **A.    That is correct.**

8           **Q.    Okay. And this was what I understand to be your**  
9 **second written complaint of race discrimination to**  
10 **PromoWorks, correct, or retaliation?**

11          **A.    This is my --**

12                   MS. JENNINGS: Objection, form. Go ahead.

13          **A.    Can you re-ask the question, please?**

14          **Q.    (By Ms. Stahr) Sure. Let me backtrack a minute.**  
15 **The first complaint you made to PromoWorks of race**  
16 **discrimination, as I understand it, was the phone call to**  
17 **Frank Colosi in early September 2008, correct?**

18          **A.    No, that's not correct.**

19          **Q.    That's what I understood your testimony to be.**

20          **A.    No, that's not correct. My first complaint was in**  
21 **August of --**

22          **Q.    Oh, I am sorry, August of 2008. I misspoke. Okay.**

23          **A.    It was a verbal -- early August verbally, and then I**  
24 **wrote another complaint on August 8th. So this is exactly**  
25 **one month later.**

1 Q. Okay. So this is your second written race complaint  
2 to PromoWorks, right?

3 A. **This is my written complaint of retaliation.**

4 Q. Okay. Based on your reporting of discrimination in  
5 September of 2008?

6 A. **Of -- no, ma'am, that's not correct.**

7 Q. Okay.

8 A. **Based on my reporting of --**

9 Q. I misspoke.

10 A. **-- my verbal and my written complaint on August 8th**  
11 **of 2008.**

12 Q. I have September stuck in my head. My apologies.  
13 Let me rephrase this so it's clear. This e-mail to Frank on  
14 September 8th, 2008 complains of retaliation for making your  
15 race discrimination complaint in August of 2008?

16 A. **That is correct.**

17 Q. Okay. I apologize. It took me a couple of tries to  
18 get those dates right. And this is based primarily on your  
19 belief that your performance review was retaliatory?

20 A. **Yes, ma'am.**

21 Q. And you detail issues you have with your performance  
22 review here in this e-mail to Frank?

23 A. **That is correct.**

24 Q. Okay. And Frank responded to you by e-mail  
25 initially that day, September 8th, 2008? And I am looking at

1 complaint to PromoWorks?

2 A. This would be August 8 of 2008, so this would be my  
3 first complaint.

4 Q. Okay. So starting out with 2009, I know that you  
5 have an issue with your bonus that you received in the spring  
6 of 2009; is that right?

7 A. That is correct.

8 Q. What else happened in 2009 that you believe is  
9 discriminatory either based on gender or race?

10 A. I was forced to perform job duties -- multiple job  
11 duties outside of my title such as performing duties for  
12 accounting. I was forced to solicit the vendors, basically,  
13 and collect on outstanding invoices, which was not a part of  
14 my job. That was accounting.

15 I was also -- I was also told that I could not  
16 continue to defy, basically, is what -- the words Denise  
17 used, and buck the system by going over her head and talking  
18 with upper management and making complaints. Denise  
19 addressed me with that. And I can't recall anything else at  
20 this time.

21 There were a string of events that happened in 2009,  
22 I mean, an overwhelming amount. As far as mentoring and  
23 training, there were -- I was forced to mentor and train a  
24 lot of employees basically to take my job, because that's  
25 what I was grooming them for.



1           They wanted me to put things in templates, document  
2 various things regarding the alcohol sampling program,  
3 document that, document my day in and day out duties, and I  
4 was consistently doing this every so often. Every month they  
5 wanted me to do the same thing over.

6           I was thrown project on top of project where I was  
7 so overwhelmed with work, but I continued to work the hours  
8 that I needed to work to get it done. But it was just -- it  
9 was just a lot that they were putting on me to make me  
10 basically quit. I think that's what they were doing.

11       Q. Did you quit?

12       A. No, I didn't.

13       Q. By the way, back in 2008 you did receive a pay  
14 increase at that point to \$58,139, I believe; is that right?

15       A. Excuse me, what year?

16       Q. 2008. You received another pay increase in 2008?

17       A. That was the three percent increase based off of  
18 that evaluation, three or -- three percent, two percent.

19       Q. In September of 2008, your increase to was  
20 \$58,139.90, does that sound accurate?

21       A. I don't recall what the exact amount was, but yes, I  
22 believe it to be accurate.

23       Q. So the bonus for 2009 -- there are two documents to  
24 this exhibit. We will call this Exhibit 15.

25                   (Perkins Exhibit No. 15 was marked.)

1 Q. So let's talk about your belief that you did not  
2 receive your full bonus. What bonus did you receive in 2009?

3 A. I don't recall the exact amount, but it was  
4 something like \$1700 total or \$1800 total.

5 Q. Okay. And was that paid -- were you ultimately paid  
6 a little bit more than that, or was that paid all at one  
7 time?

8 A. It was less. I was paid around 1100 and something  
9 dollars the first time. After his investigation, they sent  
10 me another 700 and something dollars, but it was not the  
11 bonus that was in my offer letter that I should have  
12 received.

13 Q. Okay. I see. So this goes back to the offer  
14 letter, that you believe that you were entitled to 10 percent  
15 of your salary based upon a promise made to you in the offer  
16 letter?

17 A. Exactly.

18 Q. Okay. So you are objecting to your receipt of the  
19 -- what looks to be here, based on Exhibit 16, \$1,995? Does  
20 that sound right?

21 A. I don't recall the exact amount, but I don't think  
22 it was \$1900, no.

23 Q. Was it close to that amount?

24 A. It was maybe \$100 less, 1,875, something like that.

25 Q. Okay. And you believe that's insufficient as well?

1           A.    Yes, ma'am.

2           Q.    Okay. And why is that?

3           A.    First off, these bonus goals were changed, not to  
4   the knowledge of myself or to Frank Colosi, and was put into  
5   my file. At no point in time was I ever notified that the  
6   bonus goals were changed and Frank wasn't notified that the  
7   bonus goals were changed until I brought the issue up about  
8   the amount of the bonus and questioned why was I receiving  
9   that amount.

10                   And the question was, first off, why I didn't  
11   receive the 52 -- or \$5700 based off of what they had  
12   promised. Then I was told that it was because the company  
13   didn't meet their goal. I met my personal goal, so why  
14   didn't I receive the 50 percent as promised?

15           Q.    Okay. So when you say the goals were changed, are  
16   you talking about number two under performance goals?

17           A.    I am talking about number two, yes.

18           Q.    Any other goal that was changed?

19           A.    That was the only goal that was changed.

20           Q.    So tell me how it was changed. How is number two in  
21   Exhibit 16 different from number two in 15? I understand the  
22   words are different, but tell me in terms of your job and  
23   your expectation what was different.

24           Q.    In my goals and objectives, I was expected to meet  
25   7500 demos. Within those 7500 demos -- which I exceeded

1 that. I went to like over 10,000 -- they required me to --  
2 which was out of my control, but they required 97 percent of  
3 those to be executed in the stores.

4 That's up to the agency, but that was part of my  
5 personal goal, was to make sure that 97 percent of those were  
6 executed. That was 15 percent of my bonus.

7 Q. Okay. So let me talk about that. You felt that  
8 that was an unfair goal to have 97 percent billable demos?

9 A. I felt -- yes, I felt it was unfair because I don't  
10 have any control of the execution. I can coordinate the  
11 event and I can follow through on the event, but it's up to  
12 the demo agency that staffs the event to make sure that they  
13 execute it.

14 Q. And that was removed here in the goal that's on  
15 Exhibit 16, it looks like to me. That goal was removed?

16 A. But that's -- but we never -- I never received an  
17 updated version. I never received -- they never notified me  
18 that my goals had been changed.

19 Q. So do you object to the fact that it was removed or  
20 that you were not notified it was removed?

21 MS. JENNINGS: Objection, form.

22 A. Rephrase the question.

23 Q. (By Ms. Stahr) Do you object to that being removed,  
24 that being total execution billable of Safeway alcohol demos,  
25 97 percent?

1           A.    I don't object because I met the goals on both  
2           number twos. Regardless of how they put it, I met the 15  
3           percent on both goals.

4           Q.    Okay. Well, they removed that language from Exhibit  
5           16?

6           A.    They did.

7           Q.    Okay. But they have language in here that says  
8           "Obtain a minimum of \$5,000 in POS." Does that mean point of  
9           sale?

10          A.    Point of sale revenue.

11          Q.    Revenue? Okay.

12          A.    And I brought a million dollars, over a million  
13          dollars. So \$5,000, but I brought over a million dollars.

14          Q.    Okay. Did you have any discussions with anyone  
15          about your bonus other than Frank?

16          A.    No, I did not, because that was the protocol. He  
17          asked me to keep these confidential -- discussions that we  
18          were having confidential. So they were just strictly between  
19          -- first -- well, I take that back. I am sorry. I did speak  
20          with Denise, but I addressed everyone. I wrote an e-mail and  
21          I addressed it with everyone, and then Frank replied to me.

22          Q.    Okay. Do you recall when you received your bonus of  
23          approximately 18' or \$1900?

24          A.    It was in two separate lump sums, because when they  
25          realized that I met the goals of both of these, they changed

1 and 18.

2 (Perkins Exhibit Nos. 17 and 18 were marked.)

3 Q. Perkins 17 is PW-201, 202, 203 and 204. Do you have  
4 all those pages in front of you?

5 A. Yes, I do.

6 Q. Going to 203, because there is no content on 204.  
7 It appears to me that 203 is the page that has the first  
8 e-mail on it in the string.

9 A. Okay.

10 Q. What is that?

11 A. This is the actual e-mail that I sent to Joe about  
12 the bonus payout.

13 Q. And you copy to Frank, Denise, Mike Kent and Jon  
14 Bos, right?

15 A. Correct.

16 Q. Okay. Why did you decide to e-mail Joe instead of  
17 Frank?

18 A. Because I had questioned it with Denise on a verbal  
19 phone call, and Denise advised me to contact Joe about it.

20 Q. Okay. When was that phone call with Denise?

21 A. I don't recall.

22 Q. But it was this month, approximately?

23 A. It was probably the same day. I can't speculate  
24 because I don't recall that.

25 Q. Okay. Do you recall complaining of race or gender

1 discrimination to Denise on the phone call that day, or were  
2 you talking about the bonus without stating race or gender  
3 discrimination?

4 **A. Yes, we strictly talked about the bonus.**

5 Q. Okay. And then you write this to Joe, and you have  
6 a paragraph in here at the end where you complain of race  
7 and/or gender discrimination?

8 **A. Yes.**

9 Q. Okay. And that is on April 17th, 2009 at 3:10 p.m.,  
10 right?

11 **A. That is correct.**

12 Q. Okay. And then on April 17th, that same day, Frank  
13 responds to you, and he relays that a number of employees  
14 have expressed unhappiness with their bonus; is that right?

15 **A. That is correct.**

16 Q. Do you know who makes the decisions -- the final  
17 decisions about who gets bonus payments and what amount of  
18 bonus?

19 **A. I don't know that.**

20 Q. Do you know what sort of approval processes go on or  
21 the factors that the board of directors might consider in  
22 terms of who gets a bonus and how much?

23 **A. I don't.**

24 Q. Then Frank e-mails you again above on May 5th, 2009,  
25 and it looks like he is saying he is checking into it, and he

1 would like you to submit documentation supporting your belief  
2 that your bonus was discriminatory. Okay. Did you provide  
3 any additional documentation to Frank in response to this  
4 request?

5 **A. I don't recall.**

6 Q. Then on May 5th, on that same day, you respond to  
7 Frank. Now I am looking at the first page of the exhibit.  
8 Is that the response that you sent him?

9 **A. It appears to be, yes.**

10 Q. Do you recall writing any different response to him?

11 **A. I don't recall exactly what was said.**

12 Q. Do you recall sending any different e-mail, or does  
13 this look like the e-mails that were sent in relation to this  
14 complaint?

15 **A. I can't say for sure if this is the original e-mail**  
16 **because it's a copy, but it does sound like something that I**  
17 **had said, yes.**

18 Q. Okay. Did you believe that Frank was in fact  
19 looking into the bonus issue for you?

20 **A. Yes, he said -- he told me that he was going to,**  
21 **yes.**

22 Q. Did you believe that he was?

23 **A. Yes, I did.**

24 Q. And did he ultimately get back to you about the  
25 bonus issue?



1           A.    Yes, he did.

2           Q.    Okay. This e-mail in Exhibit No. 18, Plaintiff's  
3 Dep 51, is that part of his response to you about the bonus?

4           A.    I can't say regarding all the calculations that's on  
5 here if this is the very document that I received, but it  
6 appears to be what he typed.

7           Q.    Well, at the top it says "from Frank Colosi to  
8 Shermeke Perkins." Do you have any reason to believe that  
9 subject line was fabricated or do you dispute you received  
10 this?

11          A.    I don't recall because I don't have this in my  
12 possession. I don't recall.

13          Q.    Okay. Well, this appears to reflect that you were  
14 paid an additional \$571. Does that sound right to you?

15          A.    Yes, that's about right.

16          Q.    Did you respond to Frank after receiving this e-mail  
17 about the bonus issue?

18          A.    I don't even recall. I think I questioned why I  
19 didn't receive the full 50 percent of my bonus, my personal  
20 goal, because he said that the company didn't meet their  
21 goal, that was 50 percent, as well as my 50 percent was my  
22 personal goals. And since they found that I had met my 50  
23 percent of my goal, why didn't I receive the full 50 percent  
24 of my bonus, and that's what I questioned.

25          Q.    So you were questioning essentially why you didn't

1 receive five percent -- a full five percent of your salary;  
2 is that right? If 10 percent was 100 percent you thought you  
3 were entitled to, but the company didn't meet its goals and  
4 that was 50 percent, then that would leave an additional five  
5 percent that you believe you were entitled to?

6 MS. JENNINGS: Objection, form.

7 A. What I was speaking with him about was the 25 -- or  
8 \$2700 that I should have received.

9 Q. (By Ms. Stahr) Okay. You believe you should have  
10 received \$2700?

11 A. Twenty-seven -- half of the \$5700. Whatever half of  
12 \$5700 was, I should have received my 50 percent.

13 Q. Okay. Because you did not dispute that the  
14 company's goals were not attained; is that right?

15 A. I don't know if the company's goals weren't met  
16 because no one would tell me that information. So I don't  
17 know if the company -- the company could have met their  
18 goals, but that's not something that they would reveal to me.

19 Q. Okay. Were you aware of the loss of the Wal-Mart  
20 business in 2008?

21 A. I don't recall that specifically, no.

22 Q. Were you aware of layoffs going on in the company  
23 since around December of 2008?

24 A. I recall a few, but that -- No, I -- I mean, I --  
25 not specifically. Not dates, no. I just know that there

1    **were some layoffs that went on throughout the time that I was**  
2    **there.**

3        Q.    Okay. So the -- so half of \$5700 is \$2,850. Can we  
4    agree on that or do you want to do the math? Can we agree on  
5    that number or would you like to use my phone to do the math  
6    yourself?

7                    MS. JENNINGS: Let me just do it. I do it the  
8    old-fashioned way. Yes, I agree with that.

9        Q.    (By Ms. Stahr) So your claim that you should have  
10   received \$2,850 because you believe you met 100 percent of  
11   your personal goals, is that your claim as to the bonus for  
12   2009?

13        A.    I do agree with that, yes.

14        Q.    Okay.

15        A.    And it says in this -- it says right here where  
16   Frank Colosi typed up that "50 percent for personal goals was  
17   2,864.25, for which based off of the 97 percent achievement  
18   of execution goal, you were fully eligible." So I was  
19   eligible for that amount.

20                    (Perkins Exhibit No. 19 was marked.)

21        Q.    Exhibit 19 is PW-185 and PW-219. This is a letter  
22   that I received from Debra Jennings dated May 6th, 2009.  
23   Were you aware that this letter was sent? I am looking at  
24   the top right page right now, PW-185.

25        A.    I don't know. I can't recall at this time

1           A.    After my complaint with Frank, then there were  
2   issues with me, yes.

3           Q.    So Denise mentioned to you that other employees had  
4   been expressing concerns about you?

5           A.    Not other employees. She said that she was having  
6   problems with me bucking the system.

7           Q.    Okay. Had she -- had she told you that she was  
8   getting complaints from other managers or employees about  
9   you?

10          A.    No. Actually there was no indication that I was  
11   getting any complaints.

12          Q.    Well, on PW-0038, a little lower than halfway down  
13   the page --

14          A.    Uh-huh.

15          Q.    -- it's an item that starts, "I have had several  
16   direct complaints from your co-workers on your attitude and  
17   that you are difficult to work with." Do you see that?

18          A.    I do see that, and that's -- that, again, was added  
19   -- these comments were added in 2009. That's when she stated  
20   that, but no one ever addressed me with that other than her.

21          Q.    Okay. So -- but that's what I was asking you. In  
22   May of 2009, Denise informed you that she had received  
23   complaints from co-workers about you?

24          A.    Uh-huh. That was after I had complained to Frank  
25   about her.

1 Q. But the answer to that question is yes?

2 A. Yes.

3 Q. And then July 16th, 2009 is the day you were  
4 terminated; is that correct?

5 A. July 16th, yes, ma'am.

6 (Perkins Exhibit No. 21 was marked.)

7 Q. Is this the termination letter you received? And I  
8 will mark that Exhibit 21, PW-43 and 44.

9 A. That is correct.

10 Q. The letter says here that your position was being  
11 eliminated and centralized into Safeway headquarters in  
12 California. Is that accurate, an accurate summary of what  
13 the letter says?

14 A. Yes, that's correct.

15 Q. Was your position actually centralized to  
16 California, to your knowledge, if you know?

17 A. To my knowledge, I don't know.

18 Q. You don't know one way or the other?

19 A. I don't know.

20 Q. Okay. Do you know who made the decision to  
21 terminate you?

22 A. I don't know that information. I just know what  
23 Frank -- I know what Frank Colosi told me.

24 Q. In this letter?

25 A. In this letter.

1 Q. Do you know when the decision was made to eliminate  
2 your position?

3 A. I don't know.

4 Q. And did you receive this letter by mail or e-mail,  
5 do you recall?

6 A. No. Joe and Denise flew down with an unscheduled  
7 visit and brought it in the day that I was let go.

8 Q. So they handed you this in person?

9 A. In person.

10 Q. And the explanation that they gave you for being let  
11 go, was it the same thing that is written in this letter?

12 A. They didn't say one way or the other why I was being  
13 let go. They just asked me to come into a private room and  
14 we needed to get onto a conference call, which that's what  
15 Frank did.

16 Q. Okay. Oh, Frank was on a conference call when you  
17 were --

18 A. They called Frank from the Randalls headquarters,  
19 which is where they came and I was let go.

20 Q. So your termination meeting was had with Frank on  
21 the phone and Joe and Denise there with you in person?

22 A. Exactly.

23 Q. Who did the talking?

24 A. Frank.

25 Q. He did all of the talking?

1           A.    He did all of the talking.

2           Q.    And was Frank's explanation essentially what was  
3 written in this letter?

4           A.    He basically read the letter to me, yes, uh-huh.

5           Q.    Did you ask any questions?

6           A.    I did ask questions. I asked him about his  
7 investigation and his findings, and that he had promised on  
8 two other occasions that he would get me a written document  
9 of his findings on my race discrimination and gender  
10 discrimination, and when was I going to receive that  
11 information, and he said that he would send that to me.

12          Q.    Had Frank gotten back to you verbally before your  
13 termination to discuss the results of your investigation?

14          A.    Yes, we had talked several times. We talked in  
15 February of 2009, and we spoke again, I want to say, around  
16 March and then again in June, again in June.

17          Q.    Okay. Were you satisfied with the results of  
18 Frank's investigation?

19          A.    No, I was not.

20          Q.    Were you satisfied with Frank's efforts to  
21 investigate on your behalf?

22          A.    I don't feel like he put the efforts that he should  
23 have put because he didn't give me an official report from  
24 August of 2009 all -- well, actually May 8th of 2008 through  
25 February 10th of 2009 is when I got my first official report

1 that?

2 **A. Yes.**

3 Q. Yes? Okay. And you said that you did not receive  
4 anything different in writing and nobody discussed your  
5 vacation policy with you other than what was in the handbook;  
6 is that correct?

7 **A. That is correct.**

8 Q. Okay. And then after you were laid off, you wrote a  
9 letter to Frank and to me complaining of pregnancy  
10 discrimination. Does that sound like something you did?

11 **A. Yes, I did.**

12 **(Perkins Exhibit No. 22 was marked.)**

13 Q. Okay. Exhibit 22 is Plaintiff's Dep 201, 202 and  
14 203. Is that the letter of you complaining of pregnancy  
15 discrimination that I just referred to?

16 **A. That is correct. It appears to be the letter that I**  
17 **wrote and signed, yes.**

18 Q. Okay. And were you pregnant at the time that you  
19 wrote this letter?

20 **A. I was pregnant.**

21 Q. How many months pregnant were you at this time?

22 **A. I was about a month, I guess. I can't recall**  
23 **exactly.**

24 Q. And I understand that you told Jennifer Burgess that  
25 you were pregnant shortly before your termination; is that



1 right?

2 A. That is correct. I had told a number of other  
3 employees that I was pregnant as well.

4 Q. And you asked them to keep it quiet because you  
5 weren't telling anybody publicly yet?

6 A. Well, Debbie Lee and Gina Olivia, those were the two  
7 that kept it confidential. But when I was ready to release  
8 that information, Jennifer Burgess was the person I was told  
9 was my direct supervisor, so I advised her that I was  
10 pregnant because I was beginning to become sick. So I had to  
11 let her know that I was, you know, pregnant because I was  
12 sick.

13 Q. And what day was that that you told Jennifer  
14 Burgess?

15 A. I told Jennifer -- I don't recall the exact date,  
16 but it was about a week prior to them letting me go.

17 Q. And did you tell Denise Decker you were pregnant?

18 A. Jennifer Burgess, I am quite sure, she relayed that  
19 information to Denise. That was her direct boss.

20 Q. Well, that's not my question. My question is did  
21 you tell Denise Decker you were pregnant?

22 A. No, I did not.

23 Q. Did you tell Joe Szala you were pregnant?

24 A. No, I did not, because the protocol was for me to  
25 report that to Jennifer Burgess.

1 Q. If I asked you why you did not, that would be an  
2 answer. But I am just asking you if you did or not right  
3 now, okay?

4 A. No.

5 Q. Okay. Did you tell Frank Colosi you were pregnant?

6 A. No.

7 Q. Did you tell Mike Kent you were pregnant?

8 A. No.

9 Q. Did you tell Jennifer Burgess you were pregnant?

10 A. No, ma'am.

11 Q. Do you have any proof that Jennifer Burgess told  
12 Denise Decker you were pregnant?

13 A. No, I don't.

14 Q. And did Frank respond to your letter dated July  
15 24th, 2009?

16 A. Yes, he did.

17 (Perkins Exhibit No. 23 was marked.)

18 Q. And is that the document that I have marked Perkins  
19 23, PW-0129? Yes?

20 A. Yes.

21 Q. Was Jennifer Burgess the only -- well, let me ask  
22 you this. Do you consider Jennifer Burgess a supervisor?

23 A. I was told that she was my reporting supervisor,  
24 yes.

25 Q. Is she the only person who you consider to be a

1 supervisor that you told of your pregnancy?

2 A. Debbie Lee was a supervisor or manager as well in  
3 the corporate headquarters.

4 Q. Okay.

5 A. So no, I wouldn't say that she was the only manager.

6 Q. Okay. Other than Jennifer Burgess and Debbie Lee,  
7 who else did you tell about your pregnancy?

8 A. Gina Olivia.

9 Q. Anybody else?

10 A. I told a couple of people at the Randalls offices.

11 Q. Were they PromoWorks employees?

12 A. No, they were not.

13 Q. Any other PromoWorks employee?

14 A. No, I did not.

15 (Perkins Exhibit No. 24 was marked.)

16 Q. That's Exhibit 24, Plaintiff Dep 87, 88, 89 and 90.  
17 This appears to be a termination letter to Selina Davis and  
18 some related documents relating to Selina Davis' termination;  
19 is that correct?

20 A. That's correct.

21 Q. How did you obtain these documents? And I received  
22 these from your attorney.

23 A. Selina Davis sent these to me.

24 Q. And that was after her termination or before?

25 A. No, that was before she was terminated. She sent

1 these to me upon her leaving. She copied me because she did  
2 an exit interview, and upon her exit interview she copied me  
3 because we worked side by side. So she just wanted me to  
4 know that this is what was being said.

5 Q. When you say she copied you, what do you mean? She  
6 sent you these documents?

7 A. She sent me these documents, yes.

8 Q. Did she send anybody else these documents?

9 A. I don't think so.

10 Q. Okay. And do you recall when she sent you these  
11 documents?

12 A. I don't recall.

13 Q. Was it after she was told about her termination?

14 A. Yes, it was.

15 Q. But before she actually left the company?

16 A. Yes.

17 (Perkins Exhibit No. 25 was marked.)

18 Q. Exhibit 25 is your EEOC charge. Do you recognize  
19 this document? There are two pages to the document.

20 A. Yes, it appears to be what I signed and dated.

21 Q. So on the second page at the bottom where it says  
22 "August 4, 2009," is that your signature next to it?

23 A. That is correct.

24 Q. And then in the box next to that where you swear and  
25 affirm that the complaint is -- the charge is true, is that

1 your signature also?

2 **A. That is correct.**

3 Q. And that's dated August 4th, 2009; is that right?

4 **A. That is correct.**

5 Q. And that's when you filed your charge?

6 **A. I don't recall the exact date, but it appears to be**  
7 **August 4th, 2009, yes.**

8 Q. Okay. So the first sentence where you say you filed  
9 a grievance about May 16th, 2008 alleging race, sex and  
10 retaliation discrimination for not being promoted and not  
11 receiving an incentive bonus, are you referring to the  
12 complaint made to Frank about your bonus in May of 2008?

13 **A. Yes, that's correct.**

14 Q. Okay. And that was the complaint you made to Frank  
15 about your bonus and some other issues, but you did not  
16 mention race or gender in that particular complaint, or  
17 retaliation; is that right?

18 **A. At the time that I wrote this, I didn't recall the**  
19 **dates. I just approximated the date.**

20 Q. Okay. So did you mean to say the August 2008  
21 complaint alleging race, sex and --

22 **A. I don't want to speculate, but that's -- that would**  
23 **have been the date, yes.**

24 **(Perkins Exhibit No. 26 was marked.)**

25 Q. Okay. Exhibit 26 is your -- the original petition

1 November 8th, 2011?

2 A. No.

3 (Perkins Exhibit No. 29 was marked.)

4 Q. Exhibit 29 is your answers to interrogatories.

5 A. Uh-huh.

6 Q. On Page 6 of your answers, the section that says May  
7 2007 to July 2009, do you see that?

8 A. Yes.

9 Q. It says "Witnesses: tape recordings, e-mail  
10 documentation." What tape recordings do you have from this  
11 time period? What conversations were tape recorded?

12 A. That would have been -- May '07 to July 2009, that  
13 would have been the recordings with Frank Colosi, the  
14 recording with Joe Szala and Denise Decker regarding the  
15 bonus, all the follow-ups with Frank regarding the  
16 complaints.

17 Q. You recorded all of your conversations with Frank as  
18 well about your complaints?

19 A. My evaluations, the evaluation from 2008, various  
20 meetings and conferences that they had me hold, training  
21 conferences. That's all I can recall at this time.

22 Q. Okay. So you recorded conversations with Denise  
23 Decker, yes?

24 A. Yes.

25 Q. Joe Szala?

1           A.    Yes.

2           Q.    Frank Colosi?

3           A.    Yes.

4           Q.    Who else?

5           A.    Jennifer Burgess.

6           Q.    Who else?

7           A.    I believe there was one with Debbie Lee. And I  
8 don't recall the rest of them. There were a lot of  
9 recordings.

10          Q.    Had you consulted an attorney before recording these  
11 folks secretly?

12          A.    At one point, no. I started recording way before I  
13 consulted an attorney because I felt I needed to record Joe  
14 and Denise as we were having our discussions because there  
15 was a lot of things verbally that they had promised that they  
16 hadn't honored. And that's the only reason why I started  
17 recording the conversations.

18          Q.    Did you start to record these conversations when you  
19 thought that you were being discriminated against?

20          A.    Yes, I did.

21          Q.    And was that as early as May of 2007?

22          A.    I don't think -- when I wrote the "Witnesses: tape  
23 recordings and e-mail documentation," this is just a time  
24 frame period of May 2007 to July of 2009 that I did various  
25 things in this paragraph. So it's not everything that I

1 recorded, it's just between those time periods I have  
2 recordings.

3 Q. Do you recall when the first tape recorded  
4 conversation was?

5 A. The first tape recorded conversation was between  
6 Denise Decker and Joe Szala on May the 19th of 2007. I want  
7 to say 2007 or 2000 -- 2008. I am sorry, 2008.

8 Q. May of 2008 was the first time you secretly tape  
9 recorded these folks?

10 A. You know what, I don't recall. I don't want to  
11 speculate because I don't recall. It may have been 2007.

12 Q. What kind of a device did you use?

13 A. Just a hand recorder.

14 Q. A dictaphone?

15 A. I am not for sure what a dictaphone is.

16 Q. Was it something that you connected to the phone or  
17 you just held up to the phone?

18 A. Yes, just something I held up to the phone, the  
19 little cassette tapes.

20 Q. And what would you do with the tapes once the tape  
21 was full?

22 A. Just put them away and insert another tape.

23 Q. Where did you put them away?

24 A. I stored them at my home.

25 Q. And how many tapes do you have total of your



1 conversations with PromoWorks people?

2 **A. I think there was a total of six.**

3 Q. Did you record anybody outside of PromoWorks like  
4 Safeway personnel or other customers or clients?

5 **A. No, I did not.**

6 Q. Okay.

7 **A. And for the record, I did record my first**  
8 **conversation May 19th of 2000 -- I mean, May 19th of 2007,**  
9 **yes.**

10 Q. May 19th of 2007 was the first time you recorded?

11 **A. Yes. That was the conversation regarding the reason**  
12 **why I didn't receive my bonus in 2007 with Denise and Joe**  
13 **when she came down to visit with me, and that was around the**  
14 **19th or 20th.**

15 Q. Okay. Did you record -- strike that.

16 On Page 13 of your answers where it says "Friday,  
17 June 19th, 2009" --

18 **A. On Page --**

19 Q. Page 13.

20 **A. Okay. Yes.**

21 Q. That was a Friday, it looks like, at least as far as  
22 you wrote; is that right?

23 **A. It appears to be, yes.**

24 Q. Is that a day you were working at home?

25 **A. No, I was actually in the office this day.**

1 Q. Okay.

2 A. That's why she made that comment.

3 Q. And what comment is that?

4 A. She commented, "Oh, I didn't know you would be at  
5 the office" when I picked up the phone, as if I wasn't going  
6 to be there. And she said, "I thought you would be out  
7 celebrating your freedom day." And she kind of laughed it  
8 off. And I was like, "What do you mean by freedom day?"

9 But it didn't dawn on me, because it was just a  
10 regular workday for me, that today was Juneteenth. You know,  
11 it was June 19th, and that's the day that, you know, black  
12 people celebrate their independence. And that's what she  
13 kind of related to.

14 Q. Emancipation Day?

15 A. Yes.

16 Q. Well, Emancipation Day is April 16th. It's actually  
17 this Monday. Why do you believe it's June -- you say it's  
18 June 19th?

19 A. Well, Juneteenth, we celebrate our emancipation in  
20 the south on Juneteenth.

21 Q. What's Juneteenth?

22 MS. JENNINGS: June 19th.

23 A. June 19th of 2009.

24 Q. (By Ms. Stahr) June 19th?

25 A. Yes.

1 Q. And who is "we"?

2 A. African-Americans.

3 Q. Okay. Do you have any reason to believe Denise  
4 Decker is aware of when African-Americans decided to  
5 celebrate in the south?

6 A. Well, she obviously was. She obviously was. She  
7 said that to me.

8 Q. Do you believe she was aware of that because of her  
9 use of the word "freedom day"?

10 A. That's the way I took it. I mean, today is -- it  
11 was freedom day for us in the south, but why would you use  
12 that terminology, "Oh, I thought you would be out celebrating  
13 your freedom day." To me that was derogatory. That was a  
14 racial remark.

15 Q. Do you know how many other employees may or may not  
16 have been given the day off that day?

17 A. It was a regular workday for all of us. None of us  
18 were given off that day.

19 Q. How do you know? Do you know that there are no  
20 employees --

21 A. That wasn't a paid holiday for us. That was a  
22 regular workday.

23 Q. Every so often did management say "Hey, you guys can  
24 knock off early this afternoon, you can go home"?

25 A. That wasn't one of them.

1 Q. Every once in a while did management do that?

2 A. They did periodically, yes.

3 Q. Okay. When you worked at home, were you expected to  
4 check into your voicemail or -- it was a workday for you,  
5 right, when you worked at home?

6 A. Yes. When I worked at home -- can you clarify your  
7 question?

8 Q. You say that sometimes you worked at home?

9 A. Uh-huh, I did.

10 Q. And on those days, how did you -- how did you work?  
11 Did you check into your e-mail and your office voicemail?

12 A. I did, yes.

13 Q. Do you believe that was a reasonable expectation?

14 A. I don't understand the question.

15 Q. Okay. Well, it was a workday, right? You weren't  
16 on vacation?

17 A. Right, it was a workday.

18 Q. It wasn't a day off when you were working at home?

19 A. That's correct. I was not working at home. I was  
20 in the office that day.

21 Q. I am not talking about that day any more.

22 A. Okay.

23 Q. I am talking about generally when you worked at  
24 home. You said you worked at home two or three times a  
25 month, right?

1           **A.    Uh-huh.**

2           Q.    Yes?

3           **A.    Yes, ma'am.**

4           Q.    Okay. When you worked at home, would you call in to  
5 check for your messages at the office?

6           **A.    Oh, yes. I definitely did, yes.**

7           Q.    And would you check your e-mail at the office?

8           **A.    Yes. I had a laptop.**

9           Q.    And was that a reasonable expectation of you when  
10 you were working at home to keep in contact with your office  
11 communication tools?

12          **A.    Yes, it is.**

13          Q.    Still on Page 13, underneath that you say "Thursday,  
14 June 16th, 2009." Do you see that? Page 13 at the bottom.

15          **A.    Yes.**

16          Q.    And then on the next page it goes on to describe the  
17 day that you were laid off?

18          **A.    Yes.**

19          Q.    So my question is, is that an error that -- when it  
20 says June 16th, did you mean to say July 16th?

21          **A.    I did mean to say July 16th.**

22          Q.    Okay.

23          **A.    That is an error.**

24          Q.    Had you consulted any lawyer prior to Debra Jennings  
25 about your potential claims against PromoWorks?

1 Q. So her knowledge is she is aware that there was an  
2 announcement that she heard that you were going to be a  
3 manager?

4 A. I can't speculate on anything. I don't know.

5 Q. Well, I am not asking you to speculate. I am asking  
6 you factually what Michelle would testify to to support your  
7 claims or -- or about PromoWorks' defenses.

8 A. I don't know what she would testify to.

9 Q. How about Diane Donahue?

10 A. Again, I don't know what she would testify to.

11 Q. What knowledge does she have?

12 A. I don't know what she recalls from our  
13 conversations.

14 Q. Okay. Is her knowledge based on your conversations  
15 with her?

16 A. Yes.

17 Q. And how about Tracy Schultz, the same thing?

18 A. Tracy Schultz, the same thing.

19 Q. Okay.

20 MS. STAHR: Let's take five minutes.

21 (Recess taken.)

22 (Perkins Exhibit No. 30 was marked.)

23 Q. Okay. Perkins Exhibit 30, PW-0181, is a list of  
24 individuals that have been laid off at PromoWorks since  
25 December of 2008, and we have produced this to your attorney

1 in the litigation. And my question to you is simply do you  
2 disagree or have any reason to disagree that all of these  
3 individuals have been terminated as it says in this  
4 document?

5 **A. I can't agree or disagree because some of these**  
6 **individuals I don't know, so I can't agree or disagree on**  
7 **this.**

8 Q. I understand. I am not asking you to agree that  
9 they have. I am just asking if you have any information that  
10 suggested anybody hasn't been terminated that's on this  
11 list.

12 MS. JENNINGS: Objection, I think it's been  
13 asked and answered. She didn't know.

14 Q. (By Ms. Stahr) Okay. So your answer is you -- you  
15 are in no position to agree or disagree with this document?

16 **A. No, ma'am, I am not.**

17 **(Perkins Exhibit No. 31 was marked.)**

18 Q. And the same question for Exhibit 31, Document  
19 PW-0180. This lists bonuses that individuals received in the  
20 various years. And I know that you dispute that you received  
21 \$1,000 in 2007 as stated on the list. Other than yourself,  
22 do you have any reason to disagree with any of the numbers on  
23 this document?

24 **A. I can't answer to this question because I don't know**  
25 **what they received.**

1           **A.    Yes.**

2           Q.    In a conference call with all the in-house demo  
3 coordinators?

4           **A.    Yes.**

5           Q.    When was that?

6           **A.    When she first came on board.**

7           Q.    To your knowledge, did Mekia Williams supervise  
8 anyone?

9           **A.    No.**

10          Q.    Did Mary Lou Ripper supervise anyone?

11          **A.    No, she did not.**

12          Q.    Lynn Preston, did she supervise anyone?

13          **A.    No, she did not.**

14          Q.    Did Steve Plunkett supervise anyone?

15          **A.    Steve worked side by side with me as a -- as someone**  
16 **that I was mentoring and training for my position, so yes, I**  
17 **would say he -- yes. He was -- in the end, he was equal to**  
18 **what I was doing because he was taking over my position.**

19          Q.    Was Steve consulted on these folks' performance  
20 evaluations?

21          **A.    I don't know.**

22          Q.    Did Steve supervise anyone?

23          **A.    I don't know what he done after I left the company.**  
24 **I don't know.**

25          Q.    Did Paula Dowson supervise anyone, if you know?



1           A.    Yes.

2           Q.    And I take it you also believe that your separation,  
3 your layoff from the company, was discriminatory?

4           A.    I do believe that because it was just the timing,  
5 the timing of everything. Yes, I believe that.

6           Q.    Okay. What else do you believe was discriminatory  
7 that happened in 2009?

8           A.    All the force -- the hostile environment that I was  
9 working in, being forced to -- being forced to create  
10 documents and templates and drilling me to put things in  
11 place and to organize my desk, and all of these things that  
12 they were making me do to groom someone else.

13                   I mean, I was training different personnel all  
14 across the board giving them my day in and day out duties.  
15 All of that -- all that was a factor.

16           Q.    Anything else that you believe made it a hostile  
17 environment?

18           A.    The demands of Denise, how she treated me, and the  
19 unfair treatment that she gave me throughout the process and  
20 before I left. She -- I mean, she wouldn't speak with me  
21 directly. She would funnel information through Gina Olivia  
22 to me, so she didn't talk to me directly. Then all of a  
23 sudden it was just no communication at all.

24                   She would funnel everything through Jen Burgess and  
25 tell me that that was my direct supervisor, and I was to

1     **notify Jen Burgess of everything that I had going on and**  
2     **problems that I had, so --**

3           Q.     If you could get out Exhibit 7 and Exhibit 29,  
4     that's -- they are both write-ups from you. We have gone  
5     through both of these documents before, but my question to  
6     you is -- and let's just take the year 2009 for right now.  
7     Did you write up everything that you believe happened that  
8     was discriminatory or retaliatory or harrassing in one or the  
9     other of these two documents?

10                   MS. JENNINGS: Objection, form.

11           Q.     (By Ms. Stahr) Take your time, but if you can go  
12     ahead and find where 2009 starts.

13           A.     **2009? Can you repeat the question, please?**

14           Q.     Well, and actually I don't think Exhibit 7 even goes  
15     to 2009, so let's go to Exhibit 29. And my question is on  
16     the first 17 -- no, on the first 14 or so pages of Exhibit  
17     29, you have a number of entries here with dates on them, do  
18     you see that?

19           A.     **Yes.**

20           Q.     And my question -- I am trying to make it simple,  
21     it's just not coming out that way. But my question is in  
22     terms of anything that happened to you in 2009 that you feel  
23     was discriminatory or unfair, is that recorded in this  
24     document?

25           A.     **No, everything is not recorded in this document.**

1 Q. Where else is it recorded?

2 A. I don't -- this is not everything that was -- that  
3 happened to me. I mean, this is just part of it. I did not  
4 record everything, but I can't recall at this time the things  
5 that I left out of here, so --

6 Q. Okay. Well, I am asking you to recall at this  
7 time. I would like to know what you think was discriminatory  
8 or unfair that happened to you in 2009. If it's in this  
9 document, you can just refer to the document. If it's not in  
10 this document, I would like to hear it from you.

11 A. Well, in 2009, that's when all the retaliation  
12 started with my complaint. I mean, part of it started in  
13 2008, but they retaliated against me and forced me to  
14 continue to perform job duties outside of my regular job  
15 duties, kept asking me to train different personnel, all  
16 white employees, training Steve Plunkett, training Gina  
17 Olivia.

18 I mean, all those things would transpire after my  
19 complaint of discrimination and race. They also let me go --  
20 I mean, they discharged me without any advance notice, when  
21 they had given everybody else advance notice. Prior to my  
22 discharge, everybody that I knew of, all white employees,  
23 Selina Davis being one of them -- I mean, they gave her  
24 advance notice that her job would be going away, even linked  
25 her with a headhunter.

1           They gave her 30 days of benefits. When they let me  
2 go, I did not receive benefits. I mean, there was just a lot  
3 of things that was going on that I was -- unfair treatment,  
4 race discrimination as well as retaliation, and that's all  
5 that I can recall at this time.

6           Q. Okay. Well, this may be the final break. Let's  
7 take one final break, and we will wrap up after that.

8           (Recess taken.)

9           MS. STAHR: No further questions.

10           EXAMINATION

11           QUESTIONS BY MS. JENNINGS:

12           Q. Just for the record, I am going to have just a few  
13 questions for you for clarification purposes, Ms. Perkins. I  
14 refer you back to Exhibit No. 5.

15           A. Okay.

16           Q. On Exhibit No. 5, did any of these employees receive  
17 their goals and objectives eight months into their -- into  
18 the year?

19           MS. STAHR: Objection, form, foundation.

20           A. Not to my knowledge.

21           Q. (By Ms. Jennings) You testified earlier that you  
22 received your goals and objectives, am I correct, eight  
23 months into the year for the year 2008, I believe?

24           A. That is correct.

25           Q. And do you know of any white employee who received